LAW AND THEOLOGY IN DEUTERONOMY

J.G. McConville

JOURNAL FOR THE STUDY OF THE OLD TESTAMENT
SUPPLEMENT SERIES

33

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Journal for the Study of the Old Testament
Supplement Series 33

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Published by
JSOT Press
Department of Biblical Studies
The University of Sheffield
Sheffield S10 2TN
England

Reprinted 1986

Printed in Great Britain
by Redwood Burn Ltd.,
Trowbridge, Wiltshire.

British Library Cataloguing in Publication Data

McConville, J. G.
Law and theology in Deuteronomy.—(Journal for the study of the Old Testament supplement series, ISSN 0309-0787; 33)
1. Bible. O.T. Deuteronomy—Commentaries
I. Title II. Series
222'.1506 BS1275.3

ISBN 0-905774-78-7
ISBN 0-905774-79-5 Pbk

CONTENTS

Preface	vii
Abbreviations	ix
Introduction	1
1. The Theology of Deuteronomy	10
2. The Altar-Law and Centralization of the Cult	21
3. The Sacrifices	39
4. The Tithe	68
5. The Law of Firstlings	88
6. The Feasts	99
7. The Priests and Levites	124
Conclusions	154
Notes	160
Bibliography	183
Index of Biblical References	205
Index of Authors	212

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PREFACE

The present work represents a substantial revision of a thesis submitted to the Queen's University of Belfast in 1980.

I owe a debt of gratitude to many people who have helped me in various ways during the book's preparation: above all to Dr G.J. Wenham, for his sacrificial and imaginative supervision of the thesis, which has exercised an incalculable influence on the final product; my fellow-researchers at Tyndale House, Cambridge, 1978–1980; and finally to the publishers, for their acceptance of the MS into the JSOT Supplement Series, together with helpful suggestions for the revision.

Naturally, responsibility for the views adopted in the book is solely mine.

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MAIN ABBREVIATIONS

AJCL	*American Journal of Comparative Law.*
ANE	Ancient Near East(ern).
ANET	*Ancient Near Eastern Texts*, ed. J.B. Pritchard, Princeton, 1969.
ASTI	*Annual of the Swedish Theological Institute.*
AT	Altes Testament; Ancien Testament.
AV	Authorized Version.
BA	*The Biblical Archaeologist.*
Bib Res	*Biblical Research.*
BZAW	Beiheft zur Zeitschrift für die Alttestamentliche Wissenschaft.
CBQ	*Catholic Biblical Quarterly.*
CE	Code of Eshnunna.
EJ	*Encyclopedia Judaica.*
EQ	*Evangelical Quarterly.*
EvT	*Evangelische Theologie.*
FS	Festschrift.
G-K	Gesenius–Kautzsch.
Hm	Laws of Hammurabi.
HUCA	*Hebrew Union College Annual.*
IB	*Interpreter's Bible.*
IBS	*Irish Biblical Studies.*
IDB	*Interpreter's Dictionary of the Bible.*
IEJ	*Israel Exploration Journal.*
JBL	*Journal of Biblical Literature.*
JSOT	*Journal for the Study of the Old Testament.*
JSS	*Journal of Semitic Studies.*
KS	Kleine Schriften.
NASR	New American Standard Revised Version.
NBC	*New Bible Commentary.*
NBD	*New Bible Dictionary.*
NIV	New International Version.
NKZ	*Neue Kirchliche Zeitschrift.*
OTS	*Oudtestamentische Studien.*
OT	Old Testament.
RB	*Revue Biblique.*

RSO	*Revista degli Studi Orientali.*
RSV	Revised Standard Version.
TB	*Tyndale Bulletin.*
TZ	*Theologische Zeitschrift.*
TZS	Theologische Zeitschrift, Sonderband.
VE	*Vox Evangelica.*
VT	*Vetus Testamentum.*
VTS	Supplements to Vetus Testamentum.
WThJ	*Westminster Theological Journal.*
YBT	Yale Babylonian Tablets.
ZA	*Zeitschrift für Assyriologie.*
ZAvG	*Zeitschrift für Assyriologie und verwandte Gebiete.*
ZAW	*Zeitschrift für die Alttestamentliche Wissenschaft.*

INTRODUCTION

The laws of Deuteronomy have deservedly commanded the particular attention of many students of the book.[1] This is no doubt due to the fact that a study of them leads into diverse and important areas of OT research, such as the nature of OT law, the character of Israel's cult, and critical issues concerning Deuteronomy itself. Perhaps above all they lead into questions of wider pentateuchal criticism (which on most estimates began in Deuteronomy[2]) and thence the plotting of Israel's history itself.

The aim of the present study is to examine the relation of Deuteronomy's laws to the theology of the book as a whole. In doing so we shall inevitably become involved in the sorts of issues just mentioned, particularly the question of historical provenance and the relation of Deuteronomy's laws to those of the pentateuchal codes. To this extent our endeavour is not entirely new. Yet it arises from a belief that the laws reflect the theology of the book with a richness and subtlety not hitherto fully appreciated. Indeed it is our conviction that such an appreciation has been prevented from flowering in the past because the laws have been approached too much in the spirit of historical enquiry and based, indeed, upon more or less fixed historical premises. Those premises consisted principally of the view that Deuteronomy originated in association with the reform of King Josiah (the Book of the Law, 2 Kg. 22.8, being an early form of it), and that as the source D it occupied a mid-point between JE and P in the growth of the Pentateuch. Thus the laws themselves became, at worst, mere markers of historical development, as when S.R. Driver explained the difference between the laws of tithe in Dt. 14.22ff. and Num. 18.21ff. purely by the supposition that the two laws were formulated at different stages of Israel's history.[3] Other scholars recognized the presence of consistent 'deuteronomic' features in the laws and were less concerned to establish discrepancies between the documents. Yet even then the interpretation of distinctive features of

Deuteronomy (such as the altar-law and the permission of profane slaughter, ch. 12) often depended on the book's Josianic setting.[4] The result has been to divert attention from the real function of the laws, and specifically from the way in which, as we shall see, they deliberately serve the self-presentation of Deuteronomy as speeches delivered on the verge of the promised land.

Our response to former methodological errors will be, not to ignore historical questions, but to pose them afresh *pari passu* with wider questions of interpretation. One effect of such an approach will be that in considering the relation of each law of Deuteronomy to corresponding laws in other codes the question of chronological relationship will be treated individually—a procedure which is in any case appropriate in a day when a rigid documentary view of pentateuchal source analysis no longer exerts the influence which it once did.

Research on Deuteronomy has of course far outstripped its original dating to the time of Josiah. We turn now, therefore, as a necessary prelude to our enquiry, to a consideration of the current state of scholarly opinion on Deuteronomy.

Deuteronomy

To describe the present state of research on Deuteronomy comprehensively would require a full-length study in itself, both because of the magnitude and diversity of the literature, and because the 'problem of Deuteronomy' is contiguous with so many other issues in OT history and theology. Nevertheless, in Deuteronomy studies today it is not quite a case of *Quot homines tot sententiae*. Although we shall meet with a wide variety of approaches to the book in the course of our investigation, the work of M. Noth on the Deuteronomistic History[5] has probably lent a degree of solidity to scholarly study of Deuteronomy which scarcely existed in the earlier part of the present century. His theory that the deuteronomistic historian, working in the mid-sixth century, incorporated the recently completed Deuteronomy in his work as the theological basis of it, has gained wide acceptance, even if the belief in a two-fold edition of the history is gaining strength.[6] The extent of the influence of Noth is illustrated by the fact that his basic propositions are taken up by so individual a scholar as M. Weinfeld, another major influence on modern deuteronomic studies. Despite Weinfeld's insistence that the attempt

to solve the relationship between Deuteronomy and P chronologically is misguided, it has been well pointed out that he seems nevertheless to regard Deuteronomy as a kind of fixed point in OT studies,[7] dated in the seventh century with the deuteronomistic history following in the sixth.

There is, then, something approaching a consensus in modern approaches to Deuteronomy. If, however, we look a little under the surface of the thesis which has inspired this degree of unanimity, we find three assumptions underlying it, all of which have been, or may be, questioned. At this stage of our study we cannot treat these assumptions fully. It is in place, however, to adumbrate some of the issues which we shall address at various points of our investigation.

1. *Literary Compositeness*

It is the almost universal view of modern writers on Deuteronomy that the book has attained its present form as the result of a process of growth. Such a view first arose because Wellhausen felt that not all of Deuteronomy could easily be assigned to the time of Josiah.[8] Mayes has enumerated four reasons why scholars nowadays proceed on such an assumption. They are: a. duplication of material, as in the so-called law of centralization in ch. 12; b. the mixing of historical and parenetic material; c. the occasional lapse from speech of Moses to Israel to narrative about Moses and Israel, as in ch. 27; and d. the alternation between singular and plural forms of address.[9] The first of these points is dealt with extensively below,[10] where it is argued that ch. 12 can in fact be seen as a unity. The third may be answered both by the point that, the question of style apart, Dt. 27 is an integral part of the treaty structure of the book,[11] and by the fact that ultimately the whole book is cast in the third person (1.1).[12] The second and fourth points require more consideration here. The mixing of historical and parenetic material was an essential factor in Noth's isolation of chs. 1–3 as the introduction to the deuteronomistic history. Noth believed that chs. 1–3 'does not seem intended to illustrate various admonitions and warnings, as at times in Deuteronomy 5–11, but rather is obviously narrated out of interest in the reported events themselves'.[13] The historical interest of the chapters could not have suggested to Noth that they might constitute a historical prologue in terms of an ANE treaty, since the work of Mendenhall and his successors on treaty-parallels still lay in the future when he wrote. Mayes, confronting the question of treaty-

form in relation to chs. 1–3, has conceded that the mixing of parenetic and historical material is also a feature of several treaty texts, particularly Hittite treaties. He finds, however, an essential difference between Deuteronomy and the treaties, affirming that '... there is no way in which chs. 1–3 may be understood as an attempt to inculcate a spirit of obedience, which is part at least of the intention of the historical prologue of the treaties'.[14] Yet this is hardly convincing, given the frequency of God's commands to Moses and Israel in these chapters, and the record of the consequences of obedience and disobedience (e.g. 1.26ff.; 3.2ff.). Mayes's own view of the relation between the deuteronomistic theory and treaty-form is that the treaty-form has been imposed by the second deuteronomistic layer of redaction.[15] In the course of our study, however, we shall have occasion to ask whether the recognition of treaty-form does not in fact present a more radical challenge to the deuteronomistic theory.

The question of treaty-form in Deuteronomy brings us conveniently to that of covenant–theology. One of the most important contributions to the debate on Deuteronomy since Noth's work has been that of L. Perlitt. Noth believed that it was in Deuteronomy for the first time that covenant came to be understood in the sense of 'the permanent regulation, as defined in the law, of the relationship between God and people'.[16] Perlitt, building on this premise, attempted to distinguish in detail between the covenant idea that had characterized the original Deuteronomy, based on God's oath to the patriarchs, and exemplified in ch. 7, and the idea which Dtr. subsequently imposed on the book, now based on legal observance and deposited, for example, in ch. 5.[17] Perlitt plotted the development from deuteronomic to deuteronomistic concepts of covenant not only on the grounds of internal literary considerations, but against the background of Israel's history. Dt. 7 was the result of the early deuteronomic struggle, at the beginning of the seventh century, to safeguard the threatened gifts of Yahweh, following the Assyrian deportation of the northern kingdom.[18] The Assyrian threat to Judah accounted for the severe exclusivism of 7.1ff., and for the call to religious purity, which alone would ensure God's blessing.[19] Yet the deuteronomic deprecation of idolatry falls short, in Perlitt's view, of a fully-fledged legalistic understanding of covenant. He argues that ch. 7 is not yet strictly conditional. Blessing is not yet made dependent upon obedience to commandments. 7.12a, for example, cannot belong originally to the immediate context,

because it 'tears apart' the deuteronomic proclamation of blessing based on the oath to the patriarchs.[20] This deuteronomic understanding of covenant, however, gives way to Dtr.'s legalistic understanding of Deuteronomy in the wake of the new centrality of law in Israel's experience following Josiah's reform and continuing into the exilic period,[21] and it is this view which comes to dominate in Deuteronomy.[22]

Perlitt thus works with a dichotomy between grace and law in Deuteronomy, as have others before and since.[23] It is our contention that Perlitt's distinction between the call to religious purity and a fully developed conditional covenant is ultimately illusory. We shall return to the question shortly, and at various points in our study.

Finally, under the general rubric of composite authorship, a word is in place about the alternation between singular and plural address. Noth accepted the finding of an earlier generation of criticism that the original Deuteronomy used the singular, and that the plural was a sign of later accretion.[24] This criterion has been the subject of both defence and criticism in recent times.[25] N. Lohfink has declared that number-change could only be used as a criterion for delimiting sources in Deuteronomy if it converged with other criteria, and that in practice it is not useful for this purpose. Indeed, so Lohfink argues, violence has often been done to texts by the wrong interpretation of the phenomenon of number-change, which is in reality a stylistic and rhetorical device for riveting attention.[26] (It is interesting to note in passing that Lohfink names among his examples 7.12a, which, as we noticed, Perlitt removed from its context because it represented a different kind of covenant theology to that which he thought belonged there. Lohfink refuses to remove it because it would disturb the conditionality of the blessing, which he sees as essential to the covenant tradition![27])

Mayes has accepted in principle that Lohfink has demonstrated the error of using number-change as a criterion in itself for discerning sources, declaring that the unity of 4.1-40 must be upheld despite frequent number-change. He also points out that number-change occurs in extra-biblical documents.[28] Unlike Lohfink, however, he concludes that in fact other converging considerations do support the view that the original Deuteronomy was in the singular, and that Dtr used the plural (following Minette de Tillesse).[29] It may be regarded as questionable, however, whether it is possible to regard number-change both as a deliberate literary device and as a mark of diverse

authorship. An answer to this question can only be offered in the context of close study of the text of Deuteronomy.

It is clear that the view that Deuteronomy is a composite work is not only fundamental to the criticism of the book, but interlocked with some of the major issues associated with it. We shall meet the assertion of compositeness, based partly on the criterion of number-change, most directly in our analysis of Dt. 12 (below, ch. 3), in connection with which we shall also see treaty-form and covenant theology in a new light.

2. *Seventh-Century Dating*

The question of literary compositeness has always been associated with the belief that Deuteronomy in its original form belongs in the 7th century, in the general context of Josiah's reform. Perlitt is fully in the tradition of those who chart the development of Deuteronomy against a 7th century background when he sees the rise of deuteronomic/-istic covenant theology as a response to the intensifying threat to Judah's existence at that time.

The history of Deuteronomy's interpretation has witnessed numerous attempts to dislodge it from Josiah's time, the most notable perhaps being that of Welch, whose early dating of Deuteronomy was probably influential in leading others to accept that parts at least of the book may have been much earlier than Josiah.[30] Nowadays, Noth's deuteronomistic theory has focussed the attention of most scholars once again on the 7th century, although of course earlier material is not ruled out.[31] The chief radical resistance comes from K. A. Kitchen and other scholars who insist that the treaty-form of Deuteronomy, and particularly the close analogies with second-millennium Hittite treaties, point to a late second-millennium date for Deuteronomy in its entirety. In their view at least, recognition of treaty-form clashes with 'deuteronomism'. Perhaps one of Kitchen's most significant claims is that 'deuteronomic' language and style, still of fundamental importance in Noth's theory, is in fact attested widely throughout the ANE from as early as the second millennium.[32] In particular, Kitchen points out that the motif of threatened loss of land is widespread and conventional in the treaties, and therefore is a poor guide to the dating of any document.[33]

Once again we shall take up the question of Deuteronomy's relation to the events of the seventh century at various points in our detailed study. Suffice it at this stage to enter one caveat about the

whole form-critical enterprise. A number of scholars, taking their cue from Muilenburg,[34] have protested about the too ready assignment of texts to this or that *Sitz im Leben*. D.A. Knight has warned that many different influences have contributed to the formation of a text and that we know very little about any of them. He goes on to claim that biblical statements being essentially 'out of situation' should only be inserted into situation with great caution.[35] For Knight, 'the objects of the immediate analysis are form, genre, content, linguistic structure, and rhetorical and stylistic characteristics'.[36] Muilenburg too had called for attention to literary features such as chiasmus and anaphora, and believed that repetitions—so often felt to indicate composite origin in Deuteronomy—are not fortuitous, but that many pericopes exhibit skilfully wrought linguistic patterns.[37] Principles such as these have in fact begun to be applied to Deuteronomy (chs. 5-11) by N. Lohfink, consciously drawing on modern literary theory.[38] In the present study we too shall pay attention in the first place to the text of Deuteronomy as we have it, to see, for example, whether repetitions actually function as part of the meaning of the text, rather than as indicators of its diverse origins. Because of Knight's strictures we shall not undertake to establish a definite alternative dating to that of Josiah's time. But we shall be concerned to ask whether our text belongs so certainly to that period as is often held. In pursuit of the question we shall not, of course, abandon the attempt to establish as much as possible about historical setting. But clearly, given Knight's observations about *Sitz im Leben*, and taking seriously Muilenburg's view that repetition is often a matter of style rather than compositeness, we shall be more reticent about the possibilities of establishing the historical background of any particular text than students of Deuteronomy have traditionally been.

3. *A Negative View of Cult*

One of Noth's less prominent postulates about the nature of Deuteronomy is of central importance for our study, and as we shall see, has greater significance for the assessment of the character of Deuteronomy than is suggested by the place given it by Noth. It is his belief that the deuteronomic law 'shows a distinct lack of interest in the observance of cult', being more concerned with opposition to false cults.[39] A similar position is taken, for different reasons, by Weinfeld, who sees the attitude to cultic things as one of the chief factors which distinguishes a humanistic and secularizing 'deutero-

nomic school' from the sacral-religious groupings which produced P.[40] It is true that there are areas of religious life in Israel to which Deuteronomy does not address itself in detail. There is no mention, for example, of the *ḥaṭṭā't* or *'āšām* sacrifices; nor is there any treatment of the role of the priests in the sacrificial system. This feature of the law-book which Dtr. adopted exerted considerable influence, in Noth's opinion, on the view of cult which is enshrined in the deuteronomistic history. Noth believes that Dtr. formed, on the basis of Deuteronomy's neglect of cultic matters, 'a generally pessimistic view of the possibilities of men's worship', and that this explains why in the deuteronomistic history too there is little interest in sacrifice. The temple, for example, is essentially a place of prayer (1 Kg. 8).[41]

It is our contention that Noth, and Weinfeld too,[42] have profoundly misunderstood the role of Deuteronomy's cultic laws. Basic to Noth's understanding is the belief that the cultic laws, probably from 14.22ff. on,[43] belong to the original Deuteronomy, and remain more or less in their original form. The fact of their apparently scant regard for the bread and butter of cultic life is, as far as Dtr. is concerned, purely adventitious. But that being so, the laws have then exerted influence upon his theology. In our view, however, the influence has passed in quite the reverse direction—from the theology of Deuteronomy to the style and theology of the laws. This contention will be the major subject of our study. It will be immediately obvious that, if it can be established, it has deep implications for the sorts of questions we have been airing in the preceding pages. If Deuteronomy is not basically a law which has been taken into, and has exerted influence upon, a theological framework, but is rather, even in its legislation, the fruit of theological reflection, a major question-mark is set against the composite character of the book, at least as it is currently understood. Furthermore, it will be difficult to date the laws by relating particular features of them to events of Israel's history. Any hope of dating the laws must rest with the attempt to date the theological reflection itself. But in this connection we recall von Rad's opinion that there is something timeless here,[44] and here above all we shall have cause to challenge the prevailing view emanating from Noth and Perlitt, that covenant appears late on Israel's theological horizons.

Task and Method

It will be clear from the preceding that the task before us has several dimensions. We shall have to ask how far a historical setting can be established for any of the laws. This will lead into a consideration of a broad range of issues against the background of the OT in general. In particular it will regularly involve a comparison of Deuteronomy's laws with corresponding laws in other pentateuchal law-codes. The historical enquiry in relation to each of our laws will then be followed by the question whether and how far the particular terms of the law bear upon theological thrusts of Deuteronomy as a whole. This will usually be accompanied by an examination of the literary and linguistic features of the law. Ultimately the historical enquiry and the theological/literary enquiry are inseparable, as the latter must inevitably bear upon the former.

Our study of the laws will begin with a chapter on the altar-law and the question of cult-centralization. This is the natural starting-point, since it is the first cultic legislation we meet in Deuteronomy, and also because it bears on every part of the study. Subsequently, we shall continue to deal with the laws in the order in which they occur, viz. the sacrifices, ch. 12; tithe, 14.22ff.; firstlings, 15.19ff.; feasts, ch. 16; and finally priests and Levites, 18.1-8.

Before proceeding to our study of the laws, however, it will be in place, in view of our contention that the laws depend upon the theology of Deuteronomy and not *vice versa*, to give some account of what that theology is. To this we now turn.

Chapter 1

THE THEOLOGY OF DEUTERONOMY

Good general accounts of the theology of Deuteronomy are readily available[1] and this is not an attempt to add to them. Our particular concern is to highlight those aspects of the theology of the book which will serve to illustrate the function of the laws.

A primary concern will be to assess in what sense and to what extent a concept of covenant may be said to be reflected in the laws. We have noticed already that Noth and Perlitt have seen a move towards legalism in the successive stages of the composition of Deuteronomy. To their voices may be added that of von Rad, who speaks of a 'declension from grace into law'.[2] For these scholars the demand for obedience has somehow detracted from the excellence of the theology of Yahweh's *giving* of the land, which they rightly see as central to the book.

Not all writers agree, however, that the theme of gift and response must be described in terms of conflict. P. Diepold sees in the idea of covenant a resolution of two poles. On the one hand, says Diepold, 'Yahweh's saving action on Israel's behalf has become effective, before Israel could have done anything about it', while on the other it is of the character of covenant that 'this very action and offer of Yahweh's is not forced upon Israel, but that Israel can decide, and only after her Yes does Yahweh's offer come to reality'.[3] R. Polzin, while identifying two different voices in Deuteronomy, one of which emphasizes grace and the other law, sees in them not conflict but an interplay which is 'an essential constituent, rather than a secondary addition to the ultimate semantic authority that unifies not only Deuteronomy but the entire Deuteronomistic History'.[4]

There is in fact considerable evidence to support the view that Deuteronomy exhibits a consistent and calculated balance between

the ideas of God's grace and Israel's response. We can illustrate this balance in several ways, beginning with a study of the theme of the gift of the land, and in particular of the use of the verb *nātan*.

The Gift of the Land

The land is characteristically described in Deuteronomy as Yahweh's gift to Israel.[5] The phrase which is repeatedly applied to it is *hā'āreṣ ᵃšer nōtēn ᵉlōhê ᵃbôtêkā lᵉkā* (or variations, see e.g. 12.1). Indeed the qualifying clause seems to be considered so essential to a proper understanding of what the land is that the whole expression becomes simply the normal way of referring to it. Israel's possession of the land, therefore, has to be traced supremely to Yahweh's giving of it, as is emphasized by the recurrence of the reference to the promise to the 'fathers'. Furthermore, not only the land itself but everything in it is a gift. It contains 'cities which you did not build, and houses full of all good things, which you did not fill, and cisterns hewn out, which you did not hew, and vineyards and olive trees, which you did not plant . . . ' (6.10f.). In fact, there is a sense in which the land never becomes fully Israel's, for even though Yahweh gives it, it remains ultimately his, and is twice called his 'inheritance'.[6] Israel's possession, then, is derivative. Von Rad describes the relation of Israel to the land as one of enfeoffment,[7] and von Waldow believes its status is really that of *gēr*.[8]

In the land theme, therefore, we have a clear case of Deuteronomy's insistence on the prior action of Yahweh in Israel's affairs. Equally, however, there is an emphasis on the fact that Israel's possession of the land depends upon its obedience. While there is a necessary unconditionality in the gift, there is also the ubiquitous condition: '. . . if you act corruptly . . . by doing evil in the sight of the Lord your God . . . you will soon utterly perish from the land which you are going over the Jordan to possess' (4.25f.). Sometimes Israel's obedience even seems to be a prerequisite for its taking the land in the first place (see 6.18; 8.1; 11.8f.; cf. 11.18-21; 16.20).

The passages cited give an initial impression that Yahweh's prior action and Israel's response are part and parcel of the same reality. We can take the enquiry a step further, however, by an examination of the use of the verb *nātan* in Deuteronomy, which will show that the paradox or antinomy is in the warp and woof of the diction of the book.

The Verb nātan

Of the 167 occurrences of the verb *nātan* in Deuteronomy, 131 have Yahweh as subject. The statistic itself is evidence of the importance to Deuteronomy of the primacy of Yahweh's action in Israel's possession of the land.

The object of the verb is usually 'land' itself, but sometimes varies to 'cities', 'towns', etc. (e.g. 13.12; 17.2; etc.). On occasion also the object is 'the fruit of the ground' (26.10) and 'flocks and herds' (12.21). There is also a class of objects of *nātan* which express the fact that Yahweh, in his giving to Israel, intends to bless it. In 16.17 the object is 'blessing' itself; elsewhere we find 'mercies' (13.17); 'rest' (25.19); 'all the good' (26.11). 'The prophet's words' (18.18) may belong here also, since the word of God may be considered a blessing. The land itself is conceived as a blessing (and a cause for rejoicing—a further related motif), and the land theme serves as an illustration of Yahweh's sovereign and benevolent action towards Israel. This is achieved largely through the use of the verb *nātan* which thus plays an important part in the expression of Yahweh's sovereignty in Deuteronomy. The verb *nātan* can hardly be used in Deuteronomy, in fact, without reminding the reader of the wider picture of Yahweh's sovereignty in the book.

However, the use of *nātan* with the land theme also embodies the need for Israel to respond to Yahweh's action on its behalf. This is so because *nātan* does not only have Yahweh as subject. There are numerous occasions when the subject is Israel. And the most interesting aspect of the discussion of occurrences of *nātan* is that of the interplay between these two different classes. For here the two polarities, differently interpreted by von Rad and Diepold, are seen to be embedded in the style and diction of Deuteronomy.

Of the occasions where Israel stands as the subject of *nātan*, some have reference to giving to one's fellow-man, and some to giving back to God. The former kind is exemplified by 15.7ff. Verse 7 has the expression: *bᵉ'arṣᵉkā ᵃšer ᵉlōhêkā nōtēn lāk*. Here Yahweh is the subject of the verb *nātan*. This has at once the general function of reminding of Yahweh's prior action in Israel's affairs, and a more specific one in its particular context. The verb reappears in vv. 9f. where it occurs four times, referring to a giving which is to be done by Israel: *wᵉlô' tittēn . . . nātôn tittēn . . . wᵉlô'-yēra' lᵉbābᵉkā bᵉtittᵉkā*.

Nothing could be more expressive of the fact that the giving of God requires a response on the part of Israel. The same is true in 16.5ff. in

the context of the feasts, where the response is to take the form of giving to God rather than to man. In v. 5 we find a prohibition of sacrificing the Passover 'in any of your gates . . . which the Lord your God is giving you'. Verses 10 and 16f. then return to the vocabulary of giving. In v. 10 there is an exhortation to keep the Feast of Weeks with a free-will offering 'which you shall give as the Lord your God blesses you . . . '

It is fair to suppose that the giving required of Israel in these commands is seen as a reciprocation of the gift of Yahweh referred to in v. 5. Yahweh gave the land; so you, O Israel, must give back some of its produce. Verse 17 balances the 'giving' of Israel, *mattānāh* being a derivative of *nātan*, against the fact that Yahweh has given the land. The word *mattānāh* is not common, occurring 17 times in the OT and only here in Deuteronomy. It is probable, therefore, that the terminology has deliberately been harnessed to express the idea, and necessity, of Israel's reciprocal giving. In a passage like this, the giving of God and the response of the people are seen to be two parts of a single reality.

One further instance of the verb *nātan* illustrates this duality. In Dt. 18.14, Israel is forbidden to listen to soothsayers and diviners as the surrounding nations do. The prohibition is phrased, *lō' kēn nātan l'kā Yhwh*. This is commonly translated ' . . . the Lord your God has not allowed you so to do' (RSV). A deeper level of meaning lies concealed, however. We have seen that the usage of the verb *nātan* in Deuteronomy as a whole illustrates the need for Israel to respond to Yahweh's initial giving. Both the elements of giving and response are present here. Yahweh has given, but he has given in a particular way. The *lō' kēn* is significant, for it further defines the giving of Yahweh. He has not given in such a way that Israel may henceforth act autonomously. Rather, when Yahweh gives, Israel's obedience is part of what he aims to produce. The 'given' is the land, with all its riches, occupied by an obedient people.

It emerges from the above that the polarities of gift and response should not be thought of as contradictory. We do not find von Rad's 'declension from grace into law'. The evidence indicates, on the contrary, a theology which holds 'grace and law'—to retain the terms— inextricably together. Those who, with Diepold, speak of covenant as the concept which resolves the polarities are nearer the truth.[9]

A Moral Order in Deuteronomy

Our examination of the use of the verb *nātan* has suggested that Deuteronomy enshrines a rather complex moral order within which the good of the people and their obedience to God are closely allied. The close association of good or blessing and obedience has been illustrated in a different way by H.H. Schmid. By an examination of the word *ṣᵉdāqāh* and related vocabulary he presents the thesis that 'righteousness' refers less to behaviour itself than to a wider state of affairs produced by it and continuous with it. 'Within the framework of a total thought-order (*Ordnungsdenken*) are act, qualification (*Qualifikation*) and condition (*Ergehen*) one.'[10] His statement is made on the basis of 6.24f.:

> And the Lord commanded us to do all these statutes, to fear the Lord our God, for our good always, that he might preserve us alive, as at this day. And it will be righteousness for us, if we are careful to do all this commandment before the Lord our God as he has commanded us.

Schmid resorts to the idea of reward in expounding the thought thus expressed. But this is too crude. The truth is that righteousness and its attendant benefits are almost synonymous, as appears from a closer examination of the syntactical relation between *ṣᵉdāqāh* and *ṭôb* in the passage quoted above, where the English submerges it. The vocabulary in the passage is arranged concentrically with *ṣᵉdāqāh* and *ṭôb* in corresponding positions, thus:

24 *wayᵉṣawwēnû*
Yhwh
laʿᵃśôt 'et-kol-haḥuqqîm . . .
ᵉṭôb lānû
kol-hayyāmîm . . .
25 *ûṣᵉdāqāh tihyeh-lānû . . .*
laʿᵃśot 'et-kol-hammiṣwāh . . .
lipnê Yhwh . . .
kaᴬšer ṣiwwānû

Each of the words or phrases in v. 24 is taken up again in v. 25 but this time in reverse order. Furthermore, the sense of the latter verse is very much as that of the former, except that *ṣᵉdāqāh* is substituted for *ṭôb*. It seems, therefore, that they are consciously intended to balance each other, in a relation, if not of synonymity, at least of near-synonymity. The fact that *ṭôb* comes first, furthermore, would

seem to preclude seeing the relationship as one of crude reward, for in that case *ṣᵉdāqāh* would naturally precede *ṭôb*. What is envisaged, therefore, is a state of affairs which can be alternatively described as *ṣᵉdāqāh* and *ṭôb*. The relationship operates in two directions, not just one. As blessing is unthinkable without righteousness or obedience, so is obedience unthinkable without blessing.[11]

The moral order illustrated by the parallel between *ṭôb* and *ṣᵉdāqāh* can be shown to extend also to the laws of Deuteronomy.

So far we have characterized the response due from Israel simply as obedience. But many of the laws of Deuteronomy have something more specific in common, in that they are in some way costly to the one who obeys. The following may be mentioned; sacrifices in general (ch. 12); tithe (chs. 14, 26); seventh-year release from debt and slavery, with the added stipulation to be generous in both cases (15.1-18); firstlings (15.19ff.); Passover and feasts, again with the command to be generous to the needy (16.1-17); priests' dues (18.1-8); cities of refuge—with considerable investment of labour as well as territory (19.1-10); the prohibition of cutting down certain trees for siege purposes (20.19ff.); not withholding help in the case of the neighbour's lost sheep, ox, ass, etc. (22.1-4); respecting the land-mark (a case of not taking, rather than actually giving, 19.14); not taking the mother-bird with the eggs (22.6f.); not mixing seeds, or materials for garments, or ploughing with ox and ass together (22.9-11);[12] lending without interest (23.19f.); restriction on what may be taken in pledge (24.6, 10-13, 17f.); paying the servant's wage (24.14f.); leaving the sheaf, olives and grapes for the sojourner, fatherless and widow (24.19-22); levirate marriage (25.5ff.); having just measures (25.13ff.); first-fruits (26.1-11). We might also include the laws permitting the consumption of the neighbour's grapes and corn (23.24f.). Here the cost is to the Israelite *qua* neighbour. The principle is the same.

These are not all of the same order. Some merely discourage from unjust gain, and are therefore fairly straightforward applications of the Decalogue's prohibition of stealing. These include paying the servant and respecting the landmark. Others go far beyond the most obvious requirements of that prohibition in their exhortations to generosity (e.g. the law of slave release). Some are cultic; most are not. But through them all a single, fundamental moral requirement may be discerned—a demand that the Israelite be ready to relinquish something which, for whatever reason, he may feel inclined to take or

keep for himself, perhaps even justified in doing so. These laws, therefore, counter any tendency to suppress what was due (e.g. sacrifices). But they do more, for they actually forbid insistence on one's rights to the detriment of the rights of others. This is clearest in laws such as the prohibition of taking interest on loans, which seems to have made Israel unique in the ancient Near East[13] and, most strikingly, the requirements to give generously to the released slave, and to leave one's own sheaves for the enjoyment of the poor.

Attempts have been made to explain Israel's uniqueness, especially in its laws of interest, in terms of sociological factors. B. Maarsingh, for example, following A. Causse, took the view that concepts associated with trade were foreign to Israel.[14] This is not in itself an adequate explanation of Israel's laws against interest-taking, however. The very existence of the laws shows that the practice of taking interest was known, and the possibility of its arising in Israel was taken into account. So the real explanation for the peculiarities of Deuteronomy's laws has to be sought, once again, within the framework of the book's overall thrust. At a superficial level this can be described in terms of Deuteronomy's well-known humanitarian interests, its concern that the poor should be protected. This is the line taken by Maarsingh. He defines Israel's lending as primarily '... help which the stronger must give to the weaker'.[15] Indeed, through the year of release, lending comes close to taking on the character of giving.[16] Far from investing with a view to gain, it is for the purpose of relieving immediate need.[17] Maarsingh also notices, with some justice, that Deuteronomy is more radical than Exodus or Leviticus on the matter of interest in that it specifies that interest must not be levied on anything whatever (Dt. 23.20f. Ex. 22.25 mentions only money, and Lev. 25.36f. only money and food.).[18]

This humanitarian interpretation is true as far as it goes. But there is greater depth and subtlety in the theological purpose to which Deuteronomy harnesses its individual presentation of common laws.

This subtlety is best illustrated by the complex relationship between Yahweh's 'blessing' and Israel's response as exemplified in the law of slave release. When an Israelite releases a slave (as he must do in the seventh year, 15.12) he is to give liberally to him of his produce; '... as the Lord your God has blessed you, you shall give to him'. God's blessing is the ground of the Israelite's generosity. But in v. 18 we read: 'So the Lord your God will bless you in all you do'. And here we have a promise of continued blessing based on the

Israelite's obedience in releasing the slave. The sequence then is this: God blesses, Israel obeys, God continues to bless. God's action in blessing Israel, therefore, while it had an unconditional aspect in that Israel could not acquire the blessing for itself, becomes conditional upon Israel's obedience in the land. Further examples of blessing that follows obedience are in the laws prohibiting lending at interest to a fellow-Israelite (23.21 [23.20 EVV]), and requiring that forgotten sheaves be left for the sojourner, widow and orphan (24.19).[19]

If the law of slave release best illustrates the moral dynamic operating between blessing and obedience, the same dynamic nevertheless characterizes the laws in general. We have noticed that a demand for self-denial and a renunciation of one's rights runs through them. But the result of such self-denial is the continued enjoyment of all the fruits of the land. The principle involved is in fact a paradox. Enjoyment of the land and its benefits depends upon a readiness to relinquish them. We have noticed that blessing was promised for the act of self-denial involved in slave release or the remittance of debts. But it is actually a regular principle that where blessing is promised it is in the context of self-restraint. This is so in the law about the feast of booths. The blessing promised (16.15) presupposes that the offerers do not '... appear before the Lord empty-handed', but rather that each man 'shall give as he is able' (vv. 16f.). It is so also in the law about the mother-bird (23.6f.). The young may be taken, but not the mother, even though she may be the richest prize.

The law of the mother-bird, together with the law about trees for use in siege (20.19f.), gives some understanding of the principles underlying the laws in general. The latter forbids the destruction of fruit-bearing trees for siege. Only those which bear no fruit may be used. In a way, the principle involved in both laws can be viewed on the level of common sense. In each case the law secures a future source of provision. To explain the laws thus is to perceive at least part of the truth. But the principle is not ultimately reducible to something rationally comprehensible. For the enjoyment of the good things of the land, as we have seen, is always related, in Deuteronomy, to the people's obedience to God. And it is impossible to perceive in any merely rational way, that releasing slaves, lending without interest, etc., will bring any advance in their wake. Even the embargo on the use of fruit-trees in siege may seem rationally indefensible on occasion. The laws we have mentioned, therefore, are more than just

a call to humanitarian action; rather they illustrate that moral order to which we have referred. This order consists in the paradox we have already mentioned, that the enjoyment of the land and its benefits depends upon a readiness to relinquish them.[20] A relationship between blessing and obedience is built into it.

The foregoing discussion strongly suggests that von Rad's 'declension from grace into law', echoed in their own ways by Noth and Perlitt, fails to do justice to the moral dynamic that characterizes both Deuteronomy's laws and its theology generally. This harmony between law and theology has implications for authorship which are taken up below.[21] For the moment it is enough to notice that Deuteronomy as a whole knows on the one hand that Yahweh has chosen Israel to be a people holy to himself as an act of pure love (7.6ff.). Such an understanding, however, is not incompatible with the uncompromising demand for obedience met on every page of the book. (It is a corollary of our discussion, for example, that 7.12a should be accepted, with Lohfink and against Perlitt, as an integral part of its context.[22])

Indeed it would not be an exaggeration to say that all the theology of Deuteronomy can be organized around the paradox between Yahweh's prior action and Israel's response. Large parts of the book, particularly in chs. 1–11, are devoted to showing that it was Yahweh, not Israel herself, who brought the people out of Egypt and into their present happy position on the verge of a rich land (8.11-20) whose inhabitants he is driving out in order to give it to them (9.1-4; 11.29–12.1; 26.1). We have already discussed the ubiquitous demand for Israel's obedience and response, and the blessing which flows from it, and this blessing is frequently depicted in terms of the good things of the land, not only in the 'framework' of the law-code (e.g. 7.12-16) but also throughout chs. 12–26 (12.7; 14.24; 15.6; 16.10; etc.).

The idea of the holiness of Israel to God is closely associated with that of his loving and electing activity on its behalf (7.6ff.). Once again a two-sidedness seems to be essential to this aspect of the theology of Deuteronomy. This is implied not only by the wider context of 7.6 (viz. vv. 11ff.), but also by 14.1f., where the statement of Israel's holiness not only carries implications for their behaviour but is also related to the idea of sonship of Yahweh, suggesting that the holiness of Israel is actually a reflection of his own character. Holiness, therefore, is yet another expression of the need for Israel to reciprocate in relation to the activity and character of God. The

importance of Israel's holiness as a factor in the theology of Deuteronomy is evident particularly in the opposition expressed in the book to foreign religion. The statement of Israel's holiness in Dt. 7.6 not only leads forward into the theology of election and love, but becomes retrospectively (by means of the conjunction *kî*) the basis of the command to extirpate foreign religion in vv. 1-5.

Finally the theme of the brotherhood of the members of the people of Israel deserves mention. The term *'āḥîm*, 'brothers', is Deuteronomy's characteristic expression for referring to fellow-Israelites, regardless of social status or tribal divisions (e.g. Dt. 1.16; 3.18, 20; 10.9; 15.3, 7, 9, 11). In 3.12-20 the point is made expressly that members of other tribes are also brothers. Even the king is to be 'one from among your brethren' (17.15). Its use, therefore, has a levelling function in Israel. Allied with this is the tendency to speak of Israel as a single whole, and what seems like a deliberate disregard for divisions within the people. This is true not only of tribal divisions[23] but also in the realm of worship, where it is the people as an undifferentiated whole that is gathered for worship at 'the place which the Lord will choose'. The role of the priests in cultic celebrations is played down, although it is clear from 18.1-5 that their status and rights are not actually challenged.

The theme of brotherhood, like the other themes, serves Deuteronomy's deeper concern to express the need for Israel to respond to Yahweh's action on its behalf. On the one hand the law of the king (17.14ff.) draws on the idea of brotherhood in connection with the theology of election (v. 15). The king's election and his status as a brother in Israel become a twin motivation not to use his office for self-aggrandisement. On the other hand, in the law of the priest (18.1ff.), the priest's brotherhood (v. 2) is offered as part of the ground on which he is to enjoy the fruits of the land even though deprived of a territorial inheritance (see further ch. 7).

We shall frequently have occasion to refer back to the themes outlined above in the course of our examination of the individual laws. As part of that study we shall continue to ask what light is shed on the sense in which Deuteronomy is to be understood as covenant. As a preliminary comment we merely notice that Deuteronomy's record of Yahweh's past goodness to Israel, the call to respond and the promise of blessing all correspond to important elements of Deuteronomy's treaty-form. The themes are not, however, parcelled out neatly to the formally corresponding parts of the treaty-form.

Rather they pervade the book in a fundamental way, suggesting that the covenantal idea lies very much below the surface.

Chapter 2

THE ALTAR-LAW AND CENTRALIZATION OF THE CULT

The chapter will fall into two parts. Part I will consist of an enquiry into the historical background of the altar-law. This will take the form of a critical survey of the history of its interpretation, particularly in relation to cult-centralization,[1] followed by an attempt to trace the origins of a centralizing tendency in Israel. Finally, drawing a distinction between central and sole sanctuary, we shall ask to which of these Deuteronomy is likely to have referred. Part II will take the form of a contextual study of the altar-law within Deuteronomy. In our conclusions we shall try to see how the results of this contextual study affect the question of the historical background of the law.

I

In the early stages of criticism, it was the altar-law above all which fastened the Book of Deuteronomy to Josiah's reform. But it soon came to be felt that not all of Deuteronomy could reasonably be dated to that time.[2] And for a period there was a tendency to diminish the relation of the reform to Deuteronomy in any sense.[3] But the settled and enduring result of the lively debate concerning altar-law, Josiah and Deuteronomy, was the tendency to attribute the altar-law to a particular level of redaction. This meant that even where the bulk of Deuteronomy (or Urdeuteronomium) was dated considerably earlier than the reform, the law of the altar could still be conceived as a demand for cult-centralization, essentially connected with Josiah's activities.[4]

Yet it has not been uniformly agreed that the altar-law should thus be cut free from its moorings. Scholars such as Dumermuth and Mayes have urged that it is too fundamental a feature of Deuteronomy

to treat it as a separate layer.[5] And the tendency in recent times to accept Oestreicher's view that the reform had already begun when the book was discovered is a strong argument against seeing either Deuteronomy as a whole or the altar-law in particular as its blueprint.[6]

Once the altar-law is disengaged from the time of Josiah, the question arises in what connection it might actually have been composed,[7] and correspondingly, whether we can trace the beginnings of an aspiration to a central sanctuary in Israel.

The Origin of the 'Place'-formula

Wellhausen's belief that the 'place'-formula referred to Jerusalem from the start still has its advocates today. R.E. Clements thinks the identification 'almost certain' on the grounds that in the seventh century there was no possible alternative, and because the deuteronomistic historians identify the 'place' as Jerusalem.[8] J. Schreiner also thinks it likely because the verb *bāḥar* is not used of any other city, and because the verb *šākēn* appears to be embedded in the Jerusalem cult tradition.[9] None of these reasons is conclusive, however. Clements' argument depends on the assumption that the demand for centralization only arose in the seventh century; nor does he give any weight to the identification of the original place as Shiloh in Jer. 7.12, 14. Jer. 7.12, furthermore, actually uses the verb *šākēn (šikkantî šᵉmî šām)* of Shiloh,[10] and although the verb *bāḥar* itself is absent, the passage is only comprehensible in terms of Deuteronomy's theology of 'name' and 'place' (cf. for example '. . . the place which I *gave* to you and *to your fathers*', v. 14).[11] Kraus is right to ask what later interest could have led to the association of this tradition with Shiloh, which had been destroyed and stood under the curse of Yahweh.[12] There is, moreover, one other text which associates *šākēn* and Shiloh, viz. Ps. 78.60.

Besides Jerusalem and Shiloh, the northern sanctuaries of Shechem and Bethel have also had their protagonists.[13] Conjectures as to the identity of the place originally intended by the altar-law therefore have been influenced by the widely held view that Deuteronomy as a whole has northern origins.[14] Even if the deuteronomic altar-law were northern, it would not necessarily follow, of course, that the demand for centralization was made at an earlier period than that of Hezekiah. It could be held that the law only gradually became exclusive, and that its form in Deuteronomy stands at the end of this

process. The view of Welch amounted to this, since he thought that only vv. 1-7 in Dt. 12 constituted a demand for a sole sanctuary, the earlier laws (vv. 8-28) being distributive in sense and permitting several. More recently, A.D.H. Mayes has echoed the view that Deuteronomy's altar-law represents a narrowing of that of Exodus to a sole sanctuary, finding it impossible to know when that narrowing took place.[15]

An Early Centralizing Tendency in Israel

In recent debate it has been difficult to discuss the possibility of centralized worship in ancient Israel outside the framework of M. Noth's amphictyony theory, according to which Shechem, Bethel, Gilgal and Shiloh were in succession the central sanctuary before Jerusalem.[16] The tendency, no doubt correct, to reject Noth's theory as a whole,[17] should not deflect us from asking whether he was right in supposing that certain sanctuaries before Jerusalem had the sort of status which would justify the title 'central'. Some, such as Smend, find no trace of a central sanctuary in the period of the Judges.[18] Yet we should not overlook the possible significance of the Ark in this debate. W.H. Irwin made the important point that it can only have been because of the Ark's established unifying potential that David's bringing it to Jerusalem could have had the significance it did, since David's action was designed to unify the north and south of the country.[19] Smend saw this point too, and had to postulate a recent, even sudden, widening of the Ark's significance prior to David's action, in order to accommodate it.[20] Irwin's position does more justice than Smend's, however, to the appeal to the past that is contained in the event. If the Ark did possess such a unifying power, it is not unlikely that, in the minds of the Israelites, the sanctuary which housed it enjoyed, or came to enjoy, greater prestige than others. Such a sentiment has been expressed by G.W. Anderson, who finds that it accords well with the Ark's later history and, in particular, with its relation to Jerusalem and its temple.[21]

Despite the rejection of Noth's theory, therefore, some support has remained for the view that a centralizing tendency of some kind existed in early Israel. It is in place to consider some of the evidence brought forward in favour of it.

Bethel

Of the four sanctuaries which Noth believed to have been central sanctuaries, the evidence concerning Gilgal and Shechem is weak.[22]

The case of Bethel is stronger because of the notice in Judg. 20.27 that the Ark stood there 'in those days', and the fact that the context represents 'the people of Israel' as resorting there to enquire of the Lord (v. 18) in their campaign against Benjamin. Judg. 19–21, however, is usually thought to be a late composition though incorporating early material,[23] and therefore to be of dubious historical value. While it is acknowledged that there is an ancient core in ch. 20,[24] many feel that the reference to the Ark at Bethel belongs to secondary material.[25] Noth thought that the very presence of Bethel in the narrative was secondary.[26] Others have held that the sanctuary in the original narrative was Mizpah, where the congregation is said to have assembled first (v. 1).[27]

It is clear from this uncertainty about the historical value of Judg. 20 as it stands that it cannot confidently be treated as evidence for the central significance of Bethel in the period of the Judges. However, some points may be made which counsel against outright rejection of its testimony. First, Eissfeldt takes the view that the reference to Bethel in 20.27, while secondary, is nonetheless accurate, making the telling point that '... it would be difficult to explain how the Ark should have been later connected with Bethel, home of an idolatrous cult, if such a connection were not real'.[28] Secondly, it is not clear that Mizpah functions as a sanctuary in the narrative. As Noth has pointed out, it is named only as a meeting-place of the tribes, and since no reference is made to the cult at Mizpah it cannot be in any sense a *hieros logos*.[29] This may mean that the originality of Bethel in the ancient narrative should be taken more seriously. Thirdly, the possibility of united action by the tribes in the period of the Judges should not be too readily ruled out.[30] Noth insisted on the accuracy of the portrayal of the tribes' concerted action precisely because Judg. 20 contained no *hieros logos*.[31] It is also difficult to find a late period in which a narrative about action by the tribes against Benjamin seems appropriate.[32] G.W. Anderson's suggestion of a deuteronomistic origin on the basis of criticism of Saul in 1 Samuel[33] is probably the best, though even here the evidence is weak.[34]

If the tribes really did unite against Benjamin, and if the Ark really did stand at Bethel the two facts may add up to evidence for the central significance of the sanctuary of Bethel. However, as we have seen, we should not rest too much on these conjectures.

Shiloh

The evidence for a central sanctuary in the period of the Judges is, on the face of it, strongest in the case of Shiloh. Judg. 21 makes reference to an annual feast at Shiloh, a reference whose historical accuracy is not in doubt.[35] 1 Sam. 1 records the visits of Elkanah and his family to the 'yearly sacrifice' there (v. 21). Jer. 7.12 describes Shiloh as 'the place where I [Yahweh] made my name dwell at first'. And Joshua 18.1 records a tradition that the Tent of Meeting stood there, a tradition that is echoed in 1 Sam. 2.22.

Although 1 Sam. 1–3 seems to presuppose a certain centrality of the sanctuary at Shiloh in that all Israel is said to have gone there to worship (cf. 2.14, 28), that centrality is widely questioned and not easily demonstrated.[36] The reports of the feasts which were held there do not in themselves prove a wide reference in Israel.[37] Both in Judg. 21 and 1 Sam. 1 it could be argued that they involve only people from the locality. In Judg. 21.21 the dancers are the 'daughters of Shiloh'. Elkanah, in 1 Sam. 1, is a man of Ephraim, and therefore dwelt not far from Shiloh.[38] The expression 'the yearly sacrifice' (*zebaḥ hayyāmîm*, 1.21) does not in itself prove that the feast was centralized. (It occurs also in 1 Sam. 20.6 about a feast in Bethlehem, a city about which there is no other tradition of central worship.) Nor do the traditions which associate Shiloh and the Tent of Meeting constitute hard evidence of centralized worship there.[39]

Yet once again there are some features of the narratives about Shiloh, particularly in 1 Sam. 1–3, which suggest that those who deny any central significance to it in the pre-monarchical period go too far.[40] 1 Sam. 2.27-36 assumes a continuity of the priesthood since its institution in Egypt (v. 27) and the setting is all Israel (vv. 28f.). It is generally agreed that this speech has been subject to editing.[41] But it is also usually acknowledged to have an ancient core, its original substance being the announcement of the demise either of the tribe of Levi as a whole, or the house of Eli in particular, in favour possibly of Samuel.[42] The subsequent revision is generally taken to have the specific object of claiming that the 'faithful priest' of v. 35 is Zadok.[43] But if the interest of Zadok is seen as the motivation for revision, vv. 27-30 where the all-Israel context is evident (vv. 28f.) may well have been unaffected by it. This is so because there is no mention in these verses of a successor for Eli. For this reason Mauchline concludes that vv. 27-30 'may well be an ancient record'.[44] And if it is said that the editing of 1 Sam. 1–3 in

general reflects the priestly interest of expanding a local setting for the priesthood into a national one, it may be replied that the narratives in question, embodying the wickedness of Hophni and Phineas and the ineffectuality of their father Eli, are an inappropriate vehicle for the enhancement of the priesthood. (On two occasions, 2.14 and 2.22, the wickedness of Hophni and Phineas is explicitly said to have been directed against 'all Israel' or 'all the Israelites'.) In the case of Shiloh, therefore, some difficulty attaches to the attempt to remove all traces of a wide significance in Israel in the pre-monarchic period.[45]

Joshua 22.9-34

Joshua 22.9-34 furnishes additional suggestive evidence of an early centralizing aspiration. The passage bears certain affinities with Judg. 20. In it, we read of the majority of the tribes of Israel taking united action against three tribes (Reuben, Gad and the half-tribe of Manasseh), whom they consider to be threatening the common good by erecting an altar that appeared to rival 'the altar of the Lord our God that stands before his tabernacle' (v. 29). The altar in question, according to the narrative (vv. 9, 12) appears to be, once again, that of Shiloh.

It is widely agreed that the present form of the text has been worked over.[46] It has been well noted that here as elsewhere (1 Sam. 1.3; 4.4; cf. Judg. 20.28) the name Phineas is connected with Shiloh.[47] This is taken by Möhlenbrink as evidence that Phineas's representation of the ten tribes is ancient and authentic.[48]

The important question, however, is at what point the conception of one sanctuary claiming the allegiance of several or all of the tribes entered the narrative. Soggin, though he thinks the core of the narrative 'unquestionably ancient',[49] believes it can be traced back no further than to a deuteronomic redaction, which explains in his view what he sees as a 'reluctance to mention the name of the sanctuary'.[50] It is true that the concern in the narrative is not for Shiloh as such, but for 'the altar of the Lord our God' (v. 29). This could well betray a deuteronomic interest. Yet if the narrative was written by a deuteronomist anxious to promote the interests of the Jerusalem temple, the presence of Shiloh in the story at all becomes the more authentic, and it is the more likely that an original form of the narrative was attached to that sanctuary.[51] Equally, concern about what was felt to be illegitimate worship at Gilgal is already

expressed by the northern eighth-century prophets Hosea (4.15) and Amos (4.4). These two pre-deuteronomic features, together with the presence of Phineas in the text, suggest an original condemnation of Gilgal in favour of Shiloh. Once again it is unclear just how far the centrality of Shiloh was a historical fact. But it seems that we have here a tradition attached to Shiloh which betrays the feeling that it ought to have been.

Jerusalem

Finally, the traditions surrounding Jerusalem itself are also relevant. There are some indications that its eminence depended, in part at least, on the fact that it was in continuity with earlier cultic conditions. We have already noticed that David's bringing the Ark there was calculated to give Jerusalem unifying significance, on the basis of the already established unifying potential of the Ark. Possibly, as Kraus has suggested, the same action provided specific continuity with Shiloh.[52] Certainly from David's time it was foremost among Israel's sanctuaries,[53] and the building of the temple there, so far superior to any other that is known to have existed in the monarchy period, is no doubt a consequence rather than a cause of that eminence.

Much of the material we have examined in the foregoing has been little more than suggestive. There is nothing that amounts to proof of a centralizing tendency in the period of the Judges. What has emerged, I think, from our examination of some of the traditions surrounding Shiloh, and perhaps Bethel, is that the attempt to remove from them everything suggesting an early aspiration towards unified worship meets difficulties. The narratives of Judg. 20, 1 Sam. 1–3 and Josh. 22 are most easily comprehensible if the men of early Israel are considered to have felt that the gathering of all the tribes together on at least some cultic occasions was a desideratum. G.W. Anderson is no doubt right to say that centralization was an elusive ideal in that period.[54] This also seems to be a necessary prerequisite (along with David's political acumen) for the rapidity with which Jerusalem became eminent under the monarchy. Viewed this way, the reforms of Josiah and Hezekiah may be seen as the ultimate fulfilment of a tendency that was long present in Israel.[55] No one would suggest that the conditions they aimed to produce were exactly precedented in the period of the Judges.[56] (It is clear that there were other sanctuaries alongside the central ones.) But the feasibility of

programmes such as theirs is unlikely to have been created by the Jerusalem cult tradition in isolation from its antecedents.

Deuteronomy and the Central Sanctuary

The preceding section has suggested that there was a centralizing tendency in Israel from a much earlier period than Josiah. The question now arises whether this means that Deuteronomy's altar-law might have arisen in connection with early Israelite conditions rather than in the seventh century.

This question cannot be answered without first asking what is the precise meaning of the command in Deuteronomy to go to 'the place which the Lord your God will choose'. And here a distinction has to be made between the idea of a 'central sanctuary' and that of a 'sole sanctuary'. Josiah's reform gives the impression that the reformers wished Jerusalem to be a sole sanctuary, and not merely a central one (which it was in any case). The close connection between the reform and Deuteronomy's altar-law depends on the view that Deuteronomy's demand is for a sole sanctuary also. And indeed this is the view which has commonly been held.[57]

There are reasons to think that this is less than certain, however. One attempt to argue that Deuteronomy did not require a sole sanctuary was Welch's distributive interpretation of the phrase *bᵉ'aḥad šᵉbāṭêkā* (as in 12.14); i.e. he took it to mean, not 'in one of your tribes', but 'in any of your tribes'.[58] This is a linguistic possibility.[59] But Welch's argument is not a decisive answer to the case for a sole sanctuary because the terms of 12.5 seem to be stricter. Here the command is to seek the place *mikkol-šibṭêkem*. And Welch himself agreed that here the demand was for a sole sanctuary, and that it arose in connection with Josiah's reform.[60]

There are, however, other suggestions that Deuteronomy, while requiring a pre-eminent sanctuary, did not exclude the possibility of worship elsewhere. One such is in 16.21, where the planting of a tree as an Asherah beside 'the altar of the Lord your God which you shall make' is prohibited. Since the planting of a tree beside an altar which was in a temple would be difficult, this verse has been taken as a reference to other altars besides the central one.[61] One explanation for this is that 16.21 is pre-deuteronomic. But if a deuteronomic redactor was anxious to press for a limitation of worship to one sanctuary he might have been expected to suppress a detail like this.[62]

A more important argument against the view that Deuteronomy demands a sole sanctuary is based on Dt. 27, where sacrifices are ordered to be made on Mt Ebal, in the vicinity of Shechem, on an altar of unhewn stones like that of Ex. 20.25 (Dt. 27.5-7).[63] Once again, vv. 5-7 have been held to be earlier material than Deuteronomy.[64] But it is nonetheless included in the final form of the book. It is not likely, furthermore, that the altar on Mt Ebal is the sanctuary intended by the altar-law. This is partly because of the rough and primitive nature of the altar (v. 6) and partly because an identification of the two places is nowhere made.[65] The mention of Ebal here does not lift the veil of anonymity which obscures 'the place which the Lord your God will choose'. This means that, alongside the altar-law, Deuteronomy prescribes sacrifice, albeit on a single occasion only, at another place, and in the manner of Ex. 20.24f. This material would probably have been too embarrassing for an author or compiler who wanted to concentrate worship in Jerusalem to leave it in its present form.

It is not possible to show, therefore, that Deuteronomy requires that worship be carried on in one place only. Its altar-law can be said to require no more than a pre-eminent sanctuary, tacitly allowing other, lesser altars. And this has the corollary that the law could have arisen in an earlier period than Josiah, and have been applied to Shiloh or Bethel, or any other sanctuary which, for any period, was pre-eminent in Israel.

The reason why the altar-law came to be isolated from the remainder of Deuteronomy was, as we saw, because it was felt that, while other parts of the book may have originated at an earlier time than Josiah, this law could not have done. This was because it was assumed that it demanded a sole sanctuary. We have now seen, however, that early Israel probably knew central, or pre-eminent, sanctuaries alongside lesser ones. If Deuteronomy merely legislates for a central sanctuary, without implying its exclusiveness, then the altar-law itself may be early, and indeed integral to Deuteronomy.

We are now in a position, therefore, to examine the altar-law in its context in the book.

II

'The Place which the Lord will Choose': a contextual study

The implication of Part I of the present chapter was that if Deuteronomy's altar-law had in mind only a *central* as opposed to a

sole sanctuary, it might have been earlier than the seventh century reforms, and indeed a more essential part of Deuteronomy than is often allowed. We now propose to undertake a contextual study of the formula 'the place which the Lord will choose'. That is to say, we shall attempt to discover whether the elements of that formula reflect theological themes or emphases which are present in Deuteronomy as a whole. If they do, we shall not only have new light on the theology of Deuteronomy, but also confirmation that the formula belongs essentially to the book, as was suggested in the first part of the chapter. We shall examine the formula under the headings of 1. Yahweh's Choice and 2. The Place.

1. *Yahweh's Choice*

The first task is to ask what is the essential thrust of the expression 'the place which the Lord will choose'. It seems to me that it has been too readily assumed that the meaning of the phrase is to be resolved through the identification of *hammāqôm*, 'the place'. In my view the emphasis falls rather on the verb *yibḥar*. This is because in Deuteronomy Yahweh chooses more than just 'the place'. He also chooses Israel itself (14.2), the king (17.15) and the priests (18.5; 21.5). It is true that it is the 'place' that is the object of Yahweh's choice in the great majority of cases (16 out of the 20 occurrences of the verb *bāḥar* in chs. 12–26). But this is partly in the nature of the case, since much of the legislation of these chapters concerns cultic things, and it should not deter us from trying to discern what is common to Yahweh's choosing of the place and his choosing of other things.

The common element in the 'choosing' contexts seems to be an insistence on Yahweh's prior or sovereign action in the arrangement of Israel's affairs. When it is said that Yahweh chooses the people, the king and the priests, it is clear enough in each case that the dominant idea is simply that of Yahweh's choice. His choice of the people establishes the activity of choosing as perhaps his most fundamental sovereign action, for it is this that underlies his whole relationship with them. He chose them, not because they were great, but simply because he loved them (7.7f.). In 4.37f. Yahweh's choice of Israel is seen to precede logically his bringing them out of Egypt, driving out the nations of Canaan before them and giving them the land. The choosing of the people is a vital aspect, therefore, of that emphasis on Yahweh's sovereign action which we have examined above in relation to the vocabulary of 'giving' in Deuteronomy.[66]

Other occurrences of the choosing motif are also expressions of this grand truth. In 17.14f., the people's resolve to have a king ('I will set a king over me, like all nations that are round about me') is fundamentally changed in character by the qualification that that king shall be one whom Yahweh, as opposed to the people themselves, will choose. In this, according to Deuteronomy, the Israelite monarchy is to be distinct from that of the surrounding nations. The same principle may be applied to those passages where the priests are said to be chosen by Yahweh, although it does not emerge so explicitly from them. The priest has a right to share in the produce of the land only because Yahweh has chosen him to be his priest (18.5). 18.1ff. constitute the specific application to the landless priest of the general principle that the people of Yahweh's choice shall enjoy the good things of the land.[67]

It is the law of the king that provides the closest analogy to that of the altar. As Israel was to be distinct from the nations in not choosing its own king, so too with the altar. They were not to worship at any place, a place of their own choosing, but at the place which Yahweh would choose. The contrast is plain in 12.2, 5. It is the choosing by Yahweh that distinguishes Israel's place of worship from the nations' place. Here is confirmation that the altar-law, like that of the king, is primarily a manifestation of the theme of Yahweh's choice. The frequency of the occurrence of the altar-law in comparison with other manifestations of the same principle should not deter us from this conclusion, frequent repetition being a feature of Deuteronomy in general.

There is, then, an analogy between the theme of Yahweh's 'choice' and that of his 'gift', in that each is a factor of his sovereign action in Israel's affairs. In our study of the 'giving' theme, we saw that a correspondence between Yahweh's initial giving and Israel's response was built into the language. Do we find a similar correspondence built into the language of choosing?

Two facts suggest that we do. First, there is the general consideration that Yahweh's choosing the 'place' carries with it the requirement of activity on Israel's part. They are to destroy the 'places' where the nations worshipped (12.2f.). And they are actively to 'seek' (*tidr^{e}šû*) the place which the Lord will choose, and go there (*ûbā'tā šāmmāh*, 12.5). These verbs 'you shall seek' and 'you shall go there' are placed in the emphatic position at the end of the sentence in which they appear (12.5). When Yahweh chooses the 'place' he initiates something

which is only fully achieved when Israel plays its part.

Secondly, there is in Dt. 12 a specific word-play involving the word *bāḥar*. In v. 11 the noun *mibḥār* appears, designating the best, or 'choicest', of Israel's vow-offerings. This is a comparatively rare word. It appears only twelve times in the OT, and this is its only occurrence in Deuteronomy. It seems, therefore, that it has been used here deliberately to create a correspondence with the verb *yibḥar* (also v. 11). Israel's bringing of her 'choicest' offerings, therefore, is a direct response to Yahweh's choice of the place of worship.

The motif of Yahweh's choosing, then, not only illustrates the deuteronomic theme of sovereignty, but does so in the way in which we have seen that other motifs (the gift of the land, blessing) illustrate it. That is, it shows that Yahweh initiates a situation within which Israel is expected to respond. It belongs in a profound way, therefore, to the deuteronomic theology which is its background. Here is a demonstration of the violence which is done to Deuteronomy when the altar-law is removed.

Deuteronomy 12.5

A final word is in place on Dt. 12.5. We have taken the view that Deuteronomy in general does not rigidly insist upon a single sanctuary. The terms of 12.5 were the only factor not easily accounted for by this view. Here, surely, one sanctuary and one only is demanded. Yet even the apparent exclusiveness of the demand to seek 'the place' in 12.5 is coloured by the sorts of considerations we have adduced. We have shown that it is the idea of God's choosing that is in the foreground, not the notion of a single place. Undeniably, of course, the exact reference is to *the* place, and not to places in general, or even to one among others. While observing our earlier caveat (namely that the number of places is of secondary importance), we might appeal to a further theological emphasis of Deuteronomy, mentioned briefly at an earlier stage, namely the idea of the oneness of the people. We noted that Deuteronomy characteristically eschews terms and style which speak of divisions within the people.[68] The people are 'brothers'; tribal distinctions are played down; and it is a single and unified nation that is brought into the land. Clearly the idea of one sanctuary serves such a viewpoint better than a proliferation of them. Von Rad, in an early monograph,[69] saw the inner coherence in the idea of one people, in one land, under one

God, and gathered at one sanctuary. This is certainly how the apparent solitariness of the sanctuary should be regarded. But the idea is a theological construct, or ideal. We have seen that the terms of the altar-law do not really have the force to *legislate* for a single sanctuary. That is not their purpose any more than it is the purpose of Deuteronomy actually to abolish tribal divisions. The author of Deuteronomy is happy to allow the fact of tribal divisions to appear when necessary (as at 3.12-17; 27.12f.). And equally he can speak in such a way as to imply the fact of numerous sanctuaries (16.21). When, therefore, he speaks of '*the* place which the Lord will choose', he gives expression to his belief in the appropriateness of the idea of a single sanctuary alongside the idea of a unified people, but without feeling it necessary, or perhaps even desirable, to attempt to legislate for it.

2. *The Noun* hammāqôm

We turn now to another major element of the altar-law, the noun *hammāqôm*, 'the place', to ask whether it too, like the 'choosing' motif, can be assessed against the backcloth of a wider usage in Deuteronomy.

Studies of the noun *hammāqôm* tend to limit themselves to chs. 12–26, because of a feeling that it is especially characteristic of the altar-law.[70] But in fact the noun *hammāqôm* appears several times in chs. 1–11, and once after ch. 26 (at 29.6), in a usage which is distinct from that of the altar-law, yet close enough to it to suggest a connection. What is striking about the occurrences of *hammāqôm* in the 'framework' (chs. 1–11, 27ff.) is that, as in the altar-law, it is usually (five times out of six) accompanied by the verb *bô'*. The recurring collocation of *bô'* and *māqôm* suggests a pattern in the way in which *hammāqôm* is used. And indeed the force of the phraseology that is produced is to stress the agency of Yahweh in Israel's coming into the promised land. Thus in 1.31, the point of the context of *'ad bô'ᵃkem 'ad hammāqôm hazzeh* ('until you came to this place') is not to suggest that it was by any virtue of Israel's that they came, but to remind them 'how the Lord your God bore you as a man bears his son'. Israel's coming to the place (which in this and similar contexts, of course, means a place on the borders of the land) is the result of Yahweh's agency.[71] Indeed a closer study of the occurrences of the verb *bô'* in chs. 1–11 indicates that it is typically used (even when not allied with *hammāqôm*) in contexts which stress this very theme of

Yahweh's agency in Israel's progress.[72] Perhaps the emphasis is clearest on the numerous occasions when the verb is used in the hiphil with Yahweh as subject[73]—though it should be stressed that its occurrences in the qal, as 1.31 illustrates, have the same sort of force.

The real significance of the combination in chs. 1–11 of *bô'* and *hammāqôm* in statements about Yahweh's sovereignty in Israel's affairs only appears when we notice that the combination of the same words in chs. 12–26 (in the altar-law) occurs most frequently in such a way as to demand a response from Israel precisely to Yahweh's sovereign acts. When the people are commanded to go to the place which Yahweh will choose, the emphasis is now firmly on their responsibility to worship and obey the Lord. Once again, indeed, both qal and hiphil forms of the verb *bô'* feature in the call to Israel to respond. Just as Yahweh was almost exclusively the subject of the hiphil of *bô'* in 1–11,[74] so now in 12–26, the subject is with one exception Israel.[75]

Our investigations have shown, therefore, first that the collocation of *bô'* and *hammāqôm* in Deuteronomy is not confined to the altar-law, and second—and more importantly—that the force of the combination in chs. 1–11 contrasts neatly with that in chs. 12–26. It is possible to show, furthermore, that the contrast between the two kinds of usage has been deliberately produced, when at certain key points in the text they are very pointedly brought together.[76] We may contrast, for example, a passage at the end of ch. 11 with one at the beginning of ch. 12—i.e. right at the point of transition from that part of Deuteronomy which stresses what Yahweh has done for Israel, to that part which stipulates in detail what Israel must do for Yahweh.

11.29 And the Lord will bring you (*y^{e}bî'^{a}kā*) to the land which you are going into (*'attāh bā'*) . . .

12.5, 6 . . . thither [to the 'place'] you shall go (*ûbā'tā šāmmāh*); and you shall bring (*wah^{a}bē'tem*) burnt-offerings . . .

Of particular interest is the grammatical chiasmus in the occurrences of the verb *bô'* (viz. hiphil—qal—qal—hiphil, with the Lord as the subject of the former and Israel of the latter occurrence of the hiphil). The contrast that the chiasmus produces not only confirms our observations about the different usages within chs. 1–11 and chs. 12–26, but converges perfectly with the transition between these two major parts of Deuteronomy. The theological transition, therefore, is

matched by a formal one. And of course the altar-law is integrally involved. Very similar contrasts involving the verb *bô'*, and in the context of the altar-law, occur at 26.1-3 and 26.9f. These passages also, significantly, come at a crucial point in the structure of Deuteronomy, at the moment of transition from chs. 12–26 back to the 'framework'.[77]

In the light of considerations such as these, it becomes implausible to think of the altar-law as a readily identifiable layer of redaction, which might be more or less easily removed from Deuteronomy.

'Before you' and 'Before the Lord'

Our evidence continues with a study of the term *lipnê*. It is relevant to our present concern because of the frequent occurrences of the expression *lipnê Yhwh* in chs. 12–26, meaning in effect 'at the place which the Lord will choose'. And once again there is a striking contrast between chs. 12–26 and chs. 1–11, because of the frequency in the early chapters of Deuteronomy of expressions like *lipnêkem* ('before you'), as in 1.8: 'See, I have set the land before you'. Whereas *lipnê Yhwh* is rare in chs. 1–11, *lipnêkem* and related forms are ubiquitous.[78] And again the great majority of instances of the term occur in contexts which speak strongly of Yahweh's actions on behalf of Israel.[79]

In chs. 12–26 the situation is entirely reversed. Expressions like *lipnêkem* (*mippānêkā*, etc.) in contexts which speak of Yahweh doing something 'before' Israel, occur only four times. The expression *lipnê Yhwh*, however, appears seventeen times, meaning in all but two of them (24.4, 13) 'at the place which the Lord will choose'.

The major conclusion to be drawn from these figures is that, in the use of the expression *lipnê* there is an unmistakable transition from emphasis on the action of God (on Israel's behalf) in chs. 1–11, to emphasis on Israel's reciprocal action, in chs. 12–26. The significance of this for our consideration of the place-formula in Deuteronomy lies in the association of that formula with the expression *lipnê Yhwh*. Once again 'the place which the Lord will choose' is involved in the demand for reciprocal action on the part of the Israelite to Yahweh's prior action. The extent to which the reciprocity is contained in the vocabulary used is further illustrated by the fact that, not only is *lipnê Yhwh* almost always in close conjunction with 'the place . . . ' in 12–26, but also *lipnêkem* (or variations) appears in conjunction with the noun *māqôm* in at least two, and possibly three, of its occurrences

in chs. 1–11. In 1.31 and 1.33 *māqôm* is immediately preceded by the phrase *Yhwh *lōhêkem hahōlēk lipnêkem* (1.30, 32f.). Here the Lord's 'going before them' is intimately related to his bringing them to 'this place'. In that vv. 6f. represent a logical development from vv. 4f., the context is the same, and we may say that the expressions *lipnêkem* and *māqôm* appear together. The total picture as regards reciprocity between *lipnêkem* in 1–11 and *lipnê Yhwh* in 12–26 involves *māqôm* on both sides.

We conclude from these observations about the expressions *lipnêkem* and *lipnê Yhwh* that they support our findings about the use of the noun *māqôm* in connection with the verb *bô'* and other verbs. Israel's action 'before' Yahweh corresponds to Yahweh's action 'before' Israel. Each of the expressions involved (i.e. 'before Yahweh' and 'before you') is closely connected with the noun *māqôm*. Once again, therefore, the 'place' in the altar-law is shown to enter into a literary and theological pattern which belongs to Deuteronomy as a whole.[80]

Conclusions to Chapter 2

In Part I of the present chapter we found reasons to believe that there was a tendency from pre-monarchical times to focus the worship of Israel upon the Ark. Bethel, Shiloh and above all Jerusalem thus enjoyed for longer or shorter periods the status of 'central sanctuary'. Such a status, however, was distinct from that of 'sole sanctuary'. In turn, we argued that Deuteronomy's so-called centralizing demand fell short of making an exclusive claim for any sanctuary. Indeed it was interested more in the God-givenness of the place of worship than in its identity, or even number. Its altar-law was therefore consistent with a situation relatively early in Israel's history, perhaps considerably before Josiah, and therefore, on the basis of purely historical considerations, it could easily have belonged to the original Deuteronomy.

The second part of the chapter confirmed by means of theological and literary analysis that the altar-law belonged essentially to Deuteronomy. The implications of our investigation go further, however, than merely to establish that the altar-law is integral. Our vocabulary-studies (*bāḥar, māqôm, bô', lipnê*) all help to demonstrate our contention that the theology of Deuteronomy is fundamentally one of response to Yahweh's prior action. It is particularly significant

that there is a clear transition at ch. 12 from a use of the vocabulary to speak primarily of Yahweh's actions to a use which speaks of Israel's response, and with correspondences which seem to be not merely fortuitous but contrived. These observations are relevant to Deuteronomy's treaty-form, since it is also at ch. 12 that the 'stipulations' (or 'specific stipulations') begin. The contrast between the two kinds of use of the same range of vocabulary corresponds, therefore, to the prologue and stipulations aspects of the treaty-form. Herein lies the real significance of the altar-law, with which all the vocabulary we examined was associated. We saw that the altar-law belonged to an early stage of the book's composition. We have now noticed that its presence there is not an isolated phenomenon, but part of a deeper structure relating Yahweh's initiative to Israel's response which belongs to the book as a whole. It is difficult, in the light of such data, to accept the view that treaty-form has been imposed upon Deuteronomy at a late stage of its redaction.[81] Rather, treaty-form should be recognized as a suitable, almost the inevitable, vehicle for the sorts of theological ideas which we have discerned.

Our primary concern in the present chapter (as in our study as a whole), has been to show how cultic vocabulary serves the wider emphases of the theology of Deuteronomy. We have seen how, in the altar-law, it belongs essentially to the idea of Israel's response to Yahweh's action. We can take this observation a step further by relating the vocabulary we have discussed to the idea of Yahweh's holiness.

One of the models suggested for an understanding of ethics in the OT is that of the imitation of God,[82] a principle which goes rather deeper than that of obedience. It can be observed in certain of the laws of Deuteronomy. The Israelite is to love the sojourner because Yahweh loves the sojourner (10.18; and cf. the practical corollary of this contained, e.g., in the law of the forgotten sheaf, 24.19; also 5.15; 15.15). The whole concept of the behaviour of Israelite man towards his fellow-man in Deuteronomy is explicated by the analogy of the behaviour of Yahweh towards his people.

This obligation upon Israel to imitate God seems to be embodied in the formal features of Deuteronomy which we have observed in discussing the altar-law. On the superficial level this emerges from the language itself. There are analogies between Yahweh's *giving* the land and *bringing* the people to the place of Yahweh's choice. These suggest that the action required of the people is being compared with

the action of Yahweh. Why should such a comparison or parallel be made? Dt. 7.6ff. is a statement of the holiness of the people of Israel to Yahweh. This basic affirmation is followed (vv. 9f.) by statements about the character of God. And in v. 11 there is a call to Israel to be obedient. Here is evidence that the principle enunciated by Eichrodt is correct, and indeed that it bulks large in the theology of Deuteronomy. Obedience is not required of Israel for an arbitrary reason, but because they are a people holy to God. And their holiness is evidenced to the extent to which their character approximates to that of God. In one way this approximation is achieved through the people's behaviour towards each other and outsiders. (The principle impinges on the altar-laws in the recurring command to permit the Levite to share in the worshippers' feasting: 12.12, 19; 14.27.) But the features we have been noticing in the vocabulary of the altar-law suggest that the very gathering of the people at the sanctuary is another way in which their holiness is embodied. A look at ch. 12 offers confirmation of this. As in ch. 7 the statement of Israel's holiness is made in direct contrast to the abhorrence with which Yahweh considers the foreign nations, so in ch. 12 the worship of Israel is to be fundamentally different from that of her predecessors: 'You shall not do so to the Lord your God' (12.4). The holiness or separateness of Yahweh is mirrored by a holiness or separateness of his people.[83] It emerges yet again that the altar-laws can only be removed from Deuteronomy at great detriment to the theology of the book as a whole, and indeed that Deuteronomy's concept of holiness bears within it that element of response to Yahweh, which, we have argued, is fundamental to the book.

Chapter 3

THE SACRIFICES

In the previous chapter we found reason to challenge the view that Deuteronomy's altar-law had its origin in connection with one of the major reforms of the cult. The idiosyncrasies of the law did not date it clearly to any particular time, although it could have arisen much earlier than Josiah. They were better explained in terms of the general theology of Deuteronomy. We now undertake a similar study of the sacrifices.

Dt. 12, apart from presenting the fullest statement of the altar-law, also contains general legislation about the bringing of sacrifices to that altar:

> ... and thither you shall bring your burnt-offerings and your sacrifices, your tithes and the offering that you present, your votive-offerings, your freewill offerings and the firstlings of your herd and of your flock. (12.6; cf. vv. 11, 17f., 26f.)

These laws too have tended, as we shall see, to be interpreted by reference to a Josianic *Sitz im Leben*. Our approach to them, therefore, will be similar to that which we took in the preceding chapter.

The present chapter, like the last, falls into two parts. Once again the first part will be concerned with questions of historical setting, showing how the interpretation of the laws of sacrifice has been influenced by attaching them closely to a particular period (that of Josiah). Our investigation will focus on the *zebaḥ*-sacrifice, and in particular the question of profane slaughter, which has been important in attempts to date Dt. 12.

In the second part of the chapter we shall again undertake a contextual study, relating not only Dt. 12 as a whole to other parts of Deuteronomy, but also its parts to each other. On the basis of this we

shall present our own interpretation of the laws. In pursuing this study our conclusions about *Sitz im Leben* will be borne in mind, and there will be some final reflections drawing the two parts of the chapter together.

I. *The Historical Background of the Laws of Sacrifice*

Sitz im Leben

The question as to the historical background of the laws in Dt. 12 is inseparable from the question as to the form of the chapter. That is to say, analyses of the chapter have tended to be accounts of how and in what circumstances the various parts of Dt. 12 emerged. As examples, we can refer to the interpretations of C. Steuernagel and F. Horst, both of which have been influential.

Steuernagel's treatment of Dt. 12 began with what he considered problems in the form of the chapter. He spoke of repetitions in Dt. 12 (particularly the requirements about offering and eating at the altar, vv. 5-7, 11f., 17f., and the laws of profane slaughter, vv. 15f., 20-25), and saw them as an indication that the chapter as it now stands was the work of several hands. The alternation of the second person singular and plural confirmed him in this view (vv. 1-12 being largely plural and vv. 13-31 largely singular).[1] He therefore divided the chapter first into two sections, vv. 2-12 and 13-28, each of which he subdivided (2-7, 8-12, 13-19, 20-28).[2]

These divisions of the chapter have become widely accepted, with minor variations, although there has not been universal agreement on the manner in which they are to be reached. Steuernagel himself proposed a theory of editions (*Ausgaben*). There were, he believed, two introductions to the laws, and two legal collections. The two editions (singular and plural) were separate re-workings of a *Grundgesetz*. They were subsequently brought together by a redactor (D^r), who added more laws.[3]

Steuernagel therefore understood Dt. 12 to consist of parallel versions of a single basic law. Central to this law, in his view, was the permission, recorded in vv. 15f. (cf. 20ff.), to slaughter non-sacrificially, for food, animals normally reserved for sacrifice. (The procedure is usually called profane slaughter.) In seeking a *Sitz im Leben* for this basic law he related it to the centralization of the cult in the seventh century. The law, he believed, was motivated by the need to make centralization a practical proposition by means of the permission of

profane slaughter, after the failure of Hezekiah's reform, due to practical difficulties, had led to the reaction under Manasseh.[4]

Steuernagel's so-called 'editions-theory' found some acceptance, but was not the only kind of literary analysis of Dt. 12. Horst expounded a 'supplementary hypothesis' (*Ergänzungshypothese*—previously espoused by A. Bertholet and G. Hölscher)[5] and explicitly opposed by Steuernagel.[6] In his view an Urdeuteronomium (A) was expanded by three subsequent layers of redaction (B, C and D). In ch. 12 A was represented by vv. 26f. (without v. 26b, i.e. the reference to 'the place which the Lord will choose'). B (13-18 and parts of 21-25), C (1-7) and D (8-12 and parts of 20ff.) each edited it according to his own concerns. B introduced the centralization law and profane slaughter. C and D in turn sharpened the former and limited the latter. While Steuernagel proposed separate editions artificially brought together, Horst's redactors built each on the work of his predecessor.

Despite his rejection of Steuernagel, Horst's analysis depends equally upon a background of cult-centralization. In his treatment, *Sitz im Leben* and interpretation are even more closely interwoven than in Steuernagel's. While Steuernagel explained differences as variations of a basic law, Horst's premise is that existing laws are always adjusted as new social, religious and economic conditions are encountered.[7] Dt. 12 reflects such changes, and their focus is the Josianic reformation. His layer A, therefore, is 'pre-deuteronomic' and pre-dates the demand for centralization. B reflects that demand. C and D are said to differ from B in that centralization is now an established fact. Horst's method may be illustrated by references to v. 21. Verse 21 (C) is considered to be a partial abolition of the permission of profane slaughter, because of the limiting condition imposed in the phrase: 'If the place which the Lord your God will choose . . . is too far from you . . . ' This can only reflect the situation of a small city-state where the demands of the single sanctuary (Jerusalem) can begin to be re-applied even to the *z^{e}bāḥîm*; the law must date therefore from a time after 586 BC.[8] In this way the known course of Israelite history is imaginatively exploited in order to try to find a background for the laws.

Horst's work has continued to be influential right up to recent times.[9] And the basic chapter divisions found in both Horst and Steuernagel continue to be followed.[10]

We shall see below that there have been some significant approaches

to the analysis of Dt. 12 which differ considerably from those of Steuernagel and Horst. These, however, have been sufficiently influential to afford a good starting-point for our enquiry.

The Lists of Offerings

One other, more general point should be made before we proceed, however. It has often been supposed that the lists of offerings recorded in Dt. 12 constitute a guide to the laws' historical background. This is because certain offerings which are met in other codes are not found here (the most important being the sin-offering, guilt-offering and cereal-offering). These deficiencies have been taken as evidence that when Dt. 12 was compiled the cult had not yet developed to the complexity which it later attained in P.[11] Such evidence, if valid, would afford indirect support for the belief that Deuteronomy represents a mid-point between JE and P, and therefore might be taken to support its association with the seventh century reforms.

We now propose to examine the basis of the association of the laws of sacrifice with Josiah's reform, asking a. whether they are rightly related to Josiah's reform, and b. whether they are in fact more primitive than those of P. The discussion centres on profane slaughter.

Profane Slaughter

In Dt. 12.15f. we read:

> However, you may slaughter (*tizbaḥ*) and eat flesh within any of your towns, as much as you desire, according to the blessing of the Lord your God which he has given you; the unclean and the clean may eat of it, as of the gazelle and as of the hart.
>
> Only you shall not eat the blood; you shall pour it out upon the earth like water.

The verb used for slaughter which is permitted here is *zābaḥ*, and the activity is therefore in some sense akin to the *zebaḥ*-sacrifice of v. 6. The regulation gives the impression of releasing the slaughter from its character as a sacrifice. It does not have to be taken to the altar, and the sacrificial ritual has been dispensed with, except that the blood of the beast has to be poured out on the ground like water. It is for this reason that it has been called profane slaughter, its purpose being purely the satisfaction of hunger (v. 20).

In seeking to discover the background of the laws of sacrifice in Dt. 12 we are therefore faced with the question at what point in Israel's

history the practice of profane slaughter is likely to have arisen. The assumption behind the text appears to be that there was a time when all slaughter (*zābaḥ*) was sacrificial. In the text's own terms this period was that of the desert-wanderings, and the occasion for the permission to slaughter freely was the imminent entry to the new land, and consequent distance from 'the place which the Lord will choose'. Since the work of Wellhausen and W. Robertson Smith, however, it has been widely held that this essentially sacrificial character of slaughter extended well into the monarchy period, and indeed only ceased at the time of the centralizing reforms of the seventh century.[12]

The usual view of the *Sitz im Leben* of Dt. 12.15f. has depended upon a comparison with two other passages, one a law (Lev. 17.3ff.), and one a narrative (1 Sam. 14.32-35).[13] We must therefore examine the relation of our passage to each of those. In Lev. 17.3-5 we read:

> If any man of the house of Israel kills an ox or a lamb or a goat in the camp, or kills it outside the camp, and does not bring it to the door of the tent of meeting, to offer it as a gift to the Lord before the tabernacle of the Lord, bloodguilt shall be imputed to that man: he has shed blood; and that man shall be cut off from among his people. This is to the end that the people of Israel may bring their sacrifices which they slay in the open field, that they may bring them to the Lord, to the priest at the door of the tent of meeting, and slay them as sacrifices of peace-offerings to the Lord.

This passage conceives of a single place of sacrifice, and is therefore widely held to resemble Deuteronomy on that point. It differs from it in that, far from making provision for any slaughter taking place away from the altar, it takes the dimmest possible view of such an act, threatening that any offender shall be 'cut off from among his people' (v. 4). Here if anywhere, it is insisted that slaughter should be sacrificial. This is the inevitable conclusion to be drawn from the requirement that all *z^{e}bāḥîm* are to be brought to the priest and slaughtered 'as sacrifices of peace-offerings (*zibḥê š^{e}lāmîm*) to the Lord . . . ' (v. 5). Yet most commentators have not concluded that Lev. 17.3ff. is an earlier text than Dt. 12, even though the insistence that slaughter should be sacrificial is said to be characteristically pre-deuteronomic. The opinion that Lev. 17.3ff. actually follows, and reacts against, Dt. 12 goes back to Wellhausen and has been dominant among commentators ever since.[14] Noth, for example,

considers Lev. 17.3ff. to be an exilic abrogation of Dt. 12 and a return to pre-deuteronomic conditions.[15]

Those former conditions are illustrated, it is said, by the incident that is reported in 1 Sam. 14.32-35.[16] Here it is related how Saul's army, victorious but hungry after a long fast imposed on them by the king in his determination to defeat the Philistines, fall on the Philistines' oxen and sheep, and begin eating them 'with the blood' (*'al-haddām*, v. 32). Saul, seeing their sin, has a great stone rolled to him and makes the people kill the beasts there, so that they might not eat 'with the blood'. The narrative of the incident concludes by saying that Saul built an altar to the Lord (v. 35). Those who hold that the incident demonstrates the sacral nature of slaughter in early Israel tend to suppose that the 'great stone' (v. 33) is identical with the altar of v. 35 and that the procedure adopted by Saul is a sacrifice carried out at a local sanctuary.[17]

The proposed logical (and chronological) sequence of the three passages in question is then: 1. 1 Sam. 14.32-35, reflecting a primitive view of sacrifice; 2. Dt. 12.15f., attempting to impose a revolutionary view; and 3. Lev. 17.3ff., which reacts against Deuteronomy's reform and insists that the older conceptions still stand—retaining, incidentally, Deuteronomy's centralizing measure while rejecting its concept of sacrifice. The deuteronomic law is regarded, therefore, as a sort of erratic boulder in the history of Israel's sacrifice. Both before it and after it, slaughter was regarded as necessarily sacrificial.

Deuteronomy 12 and 1 Samuel 14.32-35

The view thus outlined depends heavily on the belief that the action of Saul in 1 Sam. 14.32-35 was a sacrificial slaughter. This passage is so widely cited in connection with Dt. 12, and as evidence for the necessity of sacrificial slaughter, that some attention must be paid to it.

Budde laid down the lines along which most commentators since have proceeded. For him, Saul's action in using the stone for the slaughter was explicable in terms of the law of the altar in Ex. 20.24, which apparently provided for sacrifice at several, perhaps many, different altars. Saul's stone was such an altar.[18] The stone, of course, is not expressly called an altar. The only altar mentioned was apparently created after the slaughter (v. 35). Here too, however, Budde made a suggestion which has been followed widely since. The positioning of the stone (v. 33) and the building of the altar were separate acts; but the stone had nonetheless the character of an altar

(a 'Notaltar', Budde calls it), and it was incorporated into the later altar.[19]

The corollary of the view that the stone was an altar and Saul's action a sacrifice is that the sin of the people (v. 33) was the withholding of the portions of the sacrifices due to God, and the failure to sprinkle blood on the altar.[20]

Despite the strength of the tradition of interpretation thus outlined, however, there is some reason to think that Saul's slaughter was not a sacrifice, that therefore the stone was not an altar, and that the sin which Saul objected to was something other than the withholding of the Lord's dues.[21] In the first instance, much of the argument advanced by those who think of the slaughter as a sacrifice is based on assumption and silence. We are not told of a priest officiating. There is no mention of blood sprinkled on the altar, nor of any part of the slaughtered beast being reserved as cultic dues. Nor, as we have noticed, is the stone expressly said to be an altar. And Budde's idea of two separate erections of altars is clumsy. If the stone served as an altar in the first place, why the need to build another, or even somehow improve the first? There is no necessity that an *'eben g^{e}dôlāh* should be an altar.[22] Hard evidence for sacrifice is therefore lacking.

But the heart of the question concerns the people's sin. This is described in vv. 32, 33 and 34 as eating 'with the blood', or more literally 'on the blood'. The law whose terms are most exactly infringed by the people's action is Lev. 19.26a: *lō' tō' k^{e}lû 'al-haddām*. Many commentators, yet again taking their cue from Budde, refer to this law.[23] But it is recognized that it is not the only relevant one. And cited as legislating in a substantially similar way are Gen. 9.4 and, most significantly, Dt. 12.16, 23.[24]

However, Stoebe explicitly and Hertzberg implicitly have refused to trace the sin of the people in 1 Sam. 14.32 to Gen. 9.4 or Dt. 12.15ff.[25] To Stoebe such a connection seems imcompatible with the belief that the people's sin was a failure to sacrifice. And here he is entirely right. The laws of Gen. 9.4 and Dt. 12.15ff., like Lev. 19.26 and indeed Lev. 17.11ff., do not legislate about sacrifice. They enunciate a more fundamental principle, viz. that it is forbidden to eat blood.[26] That this principle transcends the context of sacrifice is clear from Lev. 17.13, where it is extended to the disposal of the blood of animals killed in hunting and subsequently eaten. And, more important, Stoebe has seen the inconsistency of supposing that a breach of Deuteronomy's law of profane slaughter (12.15ff.) has been

rectified by a sacrifice. If the sin identified and put to rights by Saul was indeed a breach of regulations relating to Deuteronomy's law of profane slaughter, then the likeliest interpretation of Saul's action is simply that he ensured that a profane slaughter was properly carried out. Consequently, there would be no need to see a sacrifice in the passage.

Stoebe, then, has chosen to reject the connection of our passage with Dt. 12.15ff. (and Gen. 9.4, etc.) in order to preserve the sacrificial interpretation of Saul's slaughter. But is he right to do so? In fact his reasons are rather dubious. He argues that there is a break in the Saul narrative at 1 Sam. 14.31. In vv. 24-30 we read that Saul had imposed a fast upon his soldiers until he should defeat the Philistines. Verses 31ff. seem to be a natural sequel to this, telling what happened as a result of the men's hunger from the fast. Stoebe denies this, however, insisting that their weariness and hunger are no longer in centre-stage in vv. 31ff. In doing so, he rejects *wayyā'ap hā'ām* (v. 31), as an intrusion (from v. 28). Rather, he thinks, the problem experienced by Saul and the people in vv. 31ff. is how to give proper weight to cultic necessity on the battlefield.[27] The excision of *wayyā'ap hā'ām* from v. 31, however, is entirely arbitrary. Its presence there is not an accidental intrusion from v. 28 but more likely a deliberate reminder of it, designed to establish the connection between the two sections. This is also the plainest reading of the narrative.[28] Stoebe's idea that the problem in vv. 32ff. is one raised by cultic necessity cannot be justified exegetically, and merely reiterates his preconception about slaughter in early Israel. There is nothing in the interpretation of Stoebe which actually demonstrates what he claims, viz. the error of the connection of the passage with Gen. 9.4 and Dt. 12.15ff.

The alternative conclusion to be drawn from Stoebe's correct recognition that a sacrificial interpretation of 1 Sam. 14.32ff. is incompatible with the belief that it is connected with Gen. 9.4, etc., is to insist on the connection, and take Saul's action to be, not a sacrifice, but a profane slaughter.

There is good reason to come to this conclusion. The only sin which is said to occur in 1 Sam. 14.32ff. is that the people are eating 'on the blood'. This is an offence as much against Deuteronomy's law of profane slaughter as against any other, for like Gen. 9.4, Lev. 17.11ff., and 19.26, it too forbids the consumption of blood (vv. 16, 23). Observance of blood-prohibition only does not make a slaughter a

sacrifice. And that apparently is all that is observed in 1 Sam. 14.34f.[29]

We can pursue further the connection between our passage and Deuteronomy's law, and suggest that of all the laws of blood-prohibition, the incident of Saul's slaughter recalls none more closely than this. Elements in the narrative correspond closely to elements in the law. The people's sin is occasioned because they have a great desire to eat. Dt. 12.20 provides for this exactly: 'When you say, "I will eat flesh", because you crave flesh, you may eat . . . ' They want to eat there and then, being, so far as we can tell, distant from any sanctuary. Compare Dt. 12.15, 21: 'You may slaughter and eat flesh within any of your towns' (i.e. away from the sanctuary). They eat sheep, oxen and calves (1 Sam. 14.32, cf. Dt. 12.21), just as the gazelle or hart (Dt. 12.22), i.e. with no indication that parts of the slaughtered animals were burnt or reserved for priests or Deity. The only requirement is that they do not eat with the blood. And this is Deuteronomy's only reservation also; compare 12.16: 'Only you shall not eat the blood; you shall pour it out upon the ground like water'. As for the stone, it may have no other function than to facilitate the killing of the animals in such a way as to separate the blood from the flesh.[30] Some such measure was probably necessary following the people's failure, in their enthusiasm, to pour off the blood properly.[31]

1 Sam. 14.32-35 falls far short, therefore, of being proof of the view that slaughter in early Israel was invariably sacrificial. The most that can be said with confidence is that the author of the narrative of the incident of Saul's action was familiar with a law (or at least a tradition) forbidding eating with the blood. This applies more widely than to sacrificial regulations and there is at least a suggestion, given the closeness we have noted between the passage and Deuteronomy's law, that he may even have been familiar with profane slaughter as something that was legitimate. Could it have been the law of Dt. 12.15ff. itself? If not, it must have been one that was not very different.

The implication of this for Dt. 12.15ff. is that it can no longer confidently be seen as an attempt to institute a non-sacrificial kind of slaughter in the later monarchy. Clearly it did this at some stage, however, and the question of dating is therefore raised. The view we have taken disturbs the neat schema whereby 1 Sam. 14.32ff. represents early conditions and Dt. 12 the later break with them. Since the two passages appear to agree on slaughter, the one does not

reject the other. It is impossible to say dogmatically that Dt. 12.15ff. actually precedes 1 Sam. 14.32ff. But since the latter shows that profane slaughter may well have been known early in the monarchy, the law cannot be relegated with confidence to the period of Josiah—at least not on the basis of 1 Sam. 14.32ff. which has been so important in establishing the usual view of its dating.

Deuteronomy 12 and Leviticus 17

We noticed above that the law of the sanctuary in Lev. 17.3-7 is usually thought to postdate the law of profane slaughter in Dt. 12, and indeed to be a polemical reaction against it, from the perspective of exile.[32] There have always been difficulties with this view, however. It is strange, for example, that a law that insists so strongly on sacrifice at a single altar (that of the Tent of Meeting, v. 4) should be thought to bring about a return to conditions in which there were many altars. Nor does the idea of a law penned after 587, when it would have been, as Noth admits, impossible to carry out, compel acceptance.[33] But more important than either of these weaknesses is the fact that Noth's view depends on the contention that 1 Sam. 14.32-35 proves that slaughter in early Israel was always sacrificial. We have seen that this is unlikely. So the question of the relation between Dt. 12 and Lev. 17 is really back in the melting-pot. If profane slaughter was a fact of life in the early monarchy, it is most unlikely that anyone would think of abolishing it as late as the exile. It could hardly be considered a cause of Israel's fall when it had been established for so long.[34]

Nor, I believe, does a comparison of Lev. 17 and Dt. 12 themselves force the conclusion that the Leviticus passage is later. The main determining factors in the order of the passages have usually been external.[35] The chief internal consideration, however, is the fact that the law of Lev. 17.3ff. seems to be in conscious opposition to a practice of sacrificing away from the altar. The people are to bring 'their sacrifices which they slay in the open field' (v. 5). 'So they shall no more slay their sacrifices for satyrs, after whom they play the harlot' (v. 7). Expressions like this, of course, do not necessarily refer to Deuteronomy. It is noteworthy that Deuteronomy's altar-law also expresses itself strongly against abuse of the altar:

> But you shall seek the place which the Lord your God will choose out of all your tribes to put his name and make his habitation there; thither you shall go, and thither you shall bring your burnt-

> offerings and your sacrifices ... *You shall not do according to all that we are doing here this day, every man doing what is right in his own eyes* (Dt. 12.5-8).

It is not clear what sort of abuse is referred to here. But v. 8 constitutes a definite parallel to the concern about the abuse of sacrifice in Lev. 17.3ff., and counsels caution against too readily assuming that the latter passage is conceived in opposition to a 'lax' Deuteronomy. Deuteronomy can speak of cultic abuse, yet also legislate for profane slaughter. For Deuteronomy, then, we may suppose, there is a kind of abuse which is not profane slaughter. It follows that the concern of Lev. 17.3ff. cannot be interpreted with confidence as opposition to profane slaughter. In reality Leviticus and Deuteronomy may have shared a concern about a kind of abuse whose exact nature is lost to us. The relation of Lev. 17 and Dt. 12 will have to be settled on other grounds than this sort of conjecture.

As regards logical possibility, either law could be prior. It is just as likely that a law permitting profane slaughter should modify a law limiting sacrifice to one sanctuary, as that a permissive law should later be repealed by a stricter one. In favour of the view that Dt. 12 modifies Lev. 17 is the fact that Lev. 17 cannot be shown to be re-establishing any earlier *law* (only a narrative is ever referred to, viz. 1 Sam. 14.32-35, and that misinterpreted), and the fact that this order is compatible with the logic of Deuteronomy itself. Furthermore, the belief that Lev. 17 modifies Dt. 12 makes the law of Leviticus into something very different from what it seems.

In addition to such considerations, it seems to me that the regulations concerning the blood-prohibition in each chapter may well indicate the priority of Lev. 17. In Dt. 12.16 we read:

> Only you shall not eat the blood, you shall pour it out upon the earth like water;

and in vv. 23ff., the longer version:

> Only be sure that you do not eat the blood; for the blood is the life, and you shall not eat the life with the flesh. You shall not eat it; you shall pour it out upon the earth like water. You shall not eat it; that all may go well with you and your children after you, when you do what is right in the sight of the Lord.

Even though the latter exhortation (vv. 23-25) is comparatively lengthy, neither constitutes the centre and substance of the law

which is being enunciated in the context. In each case it looks like an afterthought to the law of profane slaughter. In that law the blood-prohibition is the only aspect of the usual altar-*zebaḥ* that is retained, and the impression given (partly by the use of the adverb *raq*) is that something is referred to, in the blood-prohibition, which is already familiar to the hearers. The context and form of the blood-prohibition in vv. 16, 23-25 do not suggest that either is the earliest version of the law known to the hearers. This impression is strengthened when more or less the same formula recurs a few chapters later in Deuteronomy. Dt. 15.23 has: 'Only you shall not eat its blood; you shall pour it out on the ground like water'. It is clear that in this case at least, the formula is incidental (to the law of blemished firstlings this time), and has the force of a reminder. No doubt it points back in the first place to Dt. 12 itself. But the similarity of the expression to those used in 12.16, 23-25 suggests that the latter may have a similar retrospective and incidental function.

In contrast Lev. 17.10-14 could be a programmatic law. It is a full statement of the blood-prohibition with a detailed theological explanation (to which the brief statement in Dt. 12.23 could be a reference). And while it is related to the other subject-matter of Lev. 17 (the law of sacrifice at one sanctuary) it is not merely incidental, an afterthought, as is the case in Dt. 12 and 15. Granted then that Dt. 12 presupposes an already known blood-prohibition, it is possible that it is that of Lev. 17.

One final consideration supports the belief that Dt. 12.16, 23ff. are references to something already known. In vv. 15b, 22 (i.e. immediately preceding the regulations on blood-prohibition) the law of profane slaughter is exemplified or clarified by reference to the manner of consuming the gazelle and the hart. 'The clean and the unclean may eat of it, *as of the gazelle and as of the hart*.' This is clearly a reference to something already known (cf. again 15.22b). Reference thus to the familiar seems to be a feature of Deuteronomy's laws of profane slaughter.

In fact it is possible that in its allusion to the gazelle and the hart, Deuteronomy has in mind a practice whose legal basis is found in Lev. 17.13. Here it is commanded that any beast taken in hunting shall have its blood poured on the ground and covered with dust before consumption. The command has similarities to profane slaughter, albeit of animals not usually reserved for sacrifice. On this view an excellent background is provided for Deuteronomy's law of

profane slaughter, which can then be seen as an extension into the realm of animals normally reserved for sacrifice of regulations formerly applicable only to animals which never came to the altar.

Lev. 17.13 therefore testifies to a good deal more common ground between the two chapters (Lev. 17 and Dt. 12) than is usually admitted to be the case. K. Elliger justified his belief that Lev. 17 postdated and reacted against Dt. 12 on the basis of the former's blood-legislation. He finds in the former place 'an almost superstitious dread' of the blood of animals, which had, before Dt. 12, only been slaughtered for sacrifice, and believes that the expression *šāpak dām* of Lev. 17.4 castigates Deuteronomy's law of profane slaughter as murder.[37] But Lev. 17.13 makes this difficult to maintain. Like Dt. 12.15ff., it refers to animal slaughter away from the altar, and the necessary blood-disposal—the term used is *šāpak*. There is in reality no ideological difference between Lev. 17 and Dt. 12. Deuteronomy shares the concern of Lev. 17.4 about the illegal spilling of blood; cf. Dt. 21.7. The difference between Dt. 12 and Lev. 17 is better seen as one of function. Each chapter has a law of the altar (each implying a definite limitation), and each knows of a profane slaughter. The difference is that while Lev. 17 majors on sacrifice and its ramifications (especially the use of blood) and profane slaughter is incidental, Dt. 12 has much to say about profane slaughter—and here the use of blood is incidental.

We have seen above that profane slaughter was known earlier in Israel than is usually allowed. It can now be added that the relation between Lev. 17 and Dt. 12 should not be thought of as the polemical reaction of the former against the latter. In reality the differences in outlook are inconsiderable (if they exist at all), and on the question of order it seems best to suppose that Dt. 12.15ff. modifies Lev. 17.3ff. The date of both laws could be quite early in Israel's history.[38] The terminus a quo for the introduction of profane slaughter can be put no later than Israel's settlement in Canaan.[39]

The belief that profane slaughter was a relatively late innovation in Israel was an important plank in the platform of those who believe the background of the laws of Dt. 12 was the seventh century reforms. We have now seen that profane slaughter was an earlier phenomenon than most scholars have thought. This means that the *Sitz im Leben* of Dt. 12.15ff., and perhaps therefore the laws of Dt. 12 in general, may be considerably earlier than the seventh century also.

There is good reason to date them early in the monarchy; though they could be even older than that.

Zebaḥ in Deuteronomy 12

Having examined the function of the law of profane slaughter in Dt. 12 we now need to ask the broader question as to the purpose behind the use of sacrificial terminology which we find there. The terminology used in Dt. 12, the absence, for example, of the *haṭṭā't* and *'āšām*, has been taken as evidence that it represents a more primitive stage in the development of sacrifice than P.[40] It is our contention, however, that such a conclusion misunderstands the nature and purpose of the terminology, and indeed Dt. 12 as a whole.

As a preliminary it needs to be said that Dt. 12 is not legislation about sacrifice in the same sense that some other codes are, where detail and procedure are of the essence (e.g. Lev. 1–7). Rather, the reference to sacrifices here is subordinate to the general point about the need for Israel's worship to be distinctive (vv. 2-5, 29ff.).[41] One indication that we have in Dt. 12 a rather general and non-technical use of sacrificial vocabulary is the fact that the term *zebaḥ* always appears in close liaison with the term *'ôlāh* (vv. 6, 11, and less closely but equally unmistakably in v. 27). It is probable, as others have thought, that the use of *'ôlôtêkem w^ezibḥêkem* covers all blood-sacrifices, *'ôlāh* referring to whole burnt-offerings and *zebaḥ* referring to those where parts do not come to the altar.[42] This corresponds to the usage of *zebaḥ* in Lev. 23.37. In that text it is an inclusive term, standing for one of the major divisions of sacrifice, and covering (at least) the *zebaḥ-š^elāmîm* and the *haṭṭā't* (cf. 23.19). This would seem to be the best way to take it in Dt. 12 also. The analogy is supported by the fact that Dt. 12.6, 11 and Lev. 23.37 are all followed by similar-looking lists of offerings.

The use of *zebaḥ* in Dt. 12.27 is essentially the same as in vv. 6, 11. Here, however, a direction is given about procedure. The blood of the *z^ebāḥîm* is to be poured out (*šāpak*) on the altar, and the flesh eaten. Both the use of the verb *šāpak* and the reference to the people eating the flesh require comment. The use of *šāpak* in this verse, rather than *zāraq*, has been taken to show that the practice outlined here was different from that associated with the *š^elāmîm*-sacrifice, and more primitive than the manipulation of blood in the *zebaḥ-š^elāmîm*.[43] It is true that *zāraq* is regularly used where *š^elāmîm* or *zebaḥ-š^elāmîm* are specified. But the use of *šāpak* is wrongly interpreted if it is

thought to be merely the sign of a primitive rite. In fact it occurs several times in P, to refer to the manner of blood-disposal in the *haṭṭā't*-sacrifice (Lev. 4.7, 18, 25, 30, 34; cf. Ex. 29.12). The word cannot therefore be used as evidence that sacrificial terminology in Deuteronomy is more primitive than that of P. Once again it is best understood in terms of what the text itself aims to do. We have proposed already that the combination of *'ôlôt* and *z^{e}bāḥîm* can designate all blood-sacrifices, divided into two types; viz. those which go to the altar in their entirety, *'ôlôt*, and those of which parts are reserved from the altar, *z^{e}bāḥîm*. Dt. 12.27 reiterates that distinction, saying that the *z^{e}bāḥîm* are like the *'ôlôt* in that the blood is disposed of at the altar, but with the difference that the flesh of *z^{e}bāḥîm* may be eaten. Since it is this concern that is expressed, the text does not aim to use the terminology specifically associated with particular kinds of sacrifice which come under the general rubric of *z^{e}bāḥîm*, viz. *zebaḥ-š^{e}lāmîm* or *haṭṭā't* (perhaps among others). As such, these are not in question. Rather, a general word for blood-disposal is used in conjunction with a general word for blood-sacrifice of which parts are reserved. The use of *šāpak* here does not have the marks of specific technical usage that it has when it is used in the context of the *haṭṭā't* in particular, for there it is specified that the blood is to be poured at the base of the altar.[44] The phrase *w^{e}dam-z^{e}bāḥêkā yiššāpēk* ... is probably inadequate therefore to describe fully a particular blood-procedure, but would be entirely suitable to refer in a general way to the disposal of blood (including procedures which, when technically described, would require *zāraq*, as the *zebaḥ-š^{e}lāmîm*). Such an interpretation of the use of *šāpak* is consistent with the equally imprecise *'āśāh* with the burnt-offerings (*'ôlôt*), also in v. 27. In the case of the sacrifices, therefore, as with the altar-law, differences in Deuteronomy's usage over against P cannot be taken as evidence for the relative dating of each. It remains to examine a little more fully why Dt. 12 uses sacrificial terminology as it does.

Eating and Blessing

A loose use of vocabulary was most evident in 12.27 in the use of the general verb *'āśāh* with the noun *'ôlāh*, and in the equally general *šāpak* for the blood-manipulation with the *z^{e}bāḥîm*. There may be a clue as to the reason for the general terminology in the chapter in the blood-pouring legislation. Its place in Dt. 12.27 is best seen in the light of legislation about blood-pouring in the rest of the chapter,

particularly in the profane slaughter (vv. 16, 23); and here our studies of profane slaughter and terminology are drawn together. There is an analogy between these two kinds of legislation. Both are dominated, I would suggest, by the motif of eating—an important motif in all Deuteronomy's laws about sacrifice. It is reiterated again and again that the people shall eat of the offerings they bring to the altar (12.7, 27; 14.23ff.; 15.20ff.; 16.1ff.). This food-consumption is related to the wider theme of blessing and enjoyment of the land in Deuteronomy which we have noticed in other contexts.[45] Here we begin to see how much these themes of eating and of enjoyment of the good things of the promised land affect the specific legislation about cultic things. The law of profane slaughter takes its *raison d'être* from the people's need to eat, even when distant from an altar. And 12.27 is a final reminder in this series of laws about sacrifice in general, that even though the *'ôlôt* must be offered up in their entirety, other kinds of sacrifices are meant for eating. In each case the blood-disposal is referred to only by way of a reservation, a reminder lest in the people's enjoyment they commit a cultic offence. It is significant that blood is not even mentioned in the general statement about bringing the sacrifices in vv. 5-14.

Here, then, is a reason for the non-technical character of the cultic terminology of Dt. 12. The cultic details are subordinate to a didactic purpose characteristic of Deuteronomy as a whole. Deuteronomy insists that Yahweh is giving Israel a land for their enjoyment (cf. 8.7-10). The cultic regulations are drawn into the purpose of teaching this, even at the expense of strict precision.

How much this is the case may be illustrated by one more point. We have suggested that the noun *zebaḥ* (vv. 6, 27) is an inclusive term for all blood-sacrifices of which parts are reserved, and that as such it may cover the *haṭṭā't*—and *'āšām*—sacrifices which are not explicitly named. Strictly speaking, this would be an inaccurate usage. The flesh of these two sacrifices was to be consumed by priests only (Lev. 6.24ff.; 7.1ff.; Num. 18.9). Since the *z^{e}bāḥîm* in Dt. 12 are consumed by the offerers themselves, this might suggest that they could not include *haṭṭā't* or *'āšām*. This conclusion is unwarranted, however. The influence of the theme of enjoyment of the land's produce in Deuteronomy is such that it can override such factors. The cases of the tithe and firstlings are relevant here. These are mentioned for the first time in Deuteronomy in ch. 12 (v. 6), and are the subject of more detailed legislation later in the legal corpus

(14.22-29; 15.19-23—to which we shall be returning below, chs. 4 and 5). In Deuteronomy, the offerers themselves partake of the tithes and firstlings (12.17f.; 14.23-26; 15.20, 22). Yet in other legislation (Num. 18.15, 21ff. P) these offerings appear to go to the clergy. In the case of vow- and free-will offerings, no mention is made in Deuteronomy of those parts which, according to P, would have gone to the clergy. Lev. 7.16 classes these as kinds of *zebaḥ-šᵉlāmîm*, of which parts fell to the priests (Lev. 7.28ff.). Deuteronomy's treatment of *zᵉbāḥîm* in general, therefore, is consistent with its concern to picture Israel as an undifferentiated whole participating in the cult. The specific role of the priest—and here, it seems, even his rights—is deliberately played down. The form of the laws of sacrifice in Dt. 12 shows, therefore, how far Deuteronomy is prepared to go to conform its use of language to overriding theological purposes.

When it is appreciated how much the concerns and emphases of Deuteronomy actually affect and mould its legislation in ch. 12, it will be seen how precarious it is to treat that legislation as if it were of exactly the same order and nature as legislation on similar matters elsewhere. The sacrificial terminology is used in Dt. 12 in a way that could almost be described as non-technical. C.M. Carmichael rightly insists that the language in Dt. 12 and especially in the lists of sacrifices, is not 'the competent draftsmanship of the lawyer'.[46] The legislation in Dt. 12 is not there as an end in itself (as is the case in, e.g. Lev. 1–7). Rather, it is subordinate to certain larger interests.

We have now had occasion to challenge the usual view about the *Sitz im Leben* of the laws of Dt. 12, both through our study of profane slaughter and of terminology. Profane slaughter could date Dt. 12 considerably earlier than Josiah. The terminology revealed nothing about the relative dating of Deuteronomy and P, but suggested that the laws' form and expression is due to contextual considerations. In the second part of the chapter we shall suggest a different approach to the *Sitz im Leben*, in which a detailed contextual study will play a large part.

II. *The Interpretation of Deuteronomy 12*

A Move Away from the Traditional Sitz im Leben

Not all interpreters have tied Dt. 12 so closely to the events of the seventh century as the early followers of Wellhausen did. Two separate but related trends may be discerned. The first was initiated

by A.C. Welch, who insisted that the background of most of Dt. 12 was not the centralization of the cult, but opposition to foreign religion, and that the need for profane slaughter would have arisen as soon as Israel settled in the land of Canaan.[47]

The other trend in the movement away from the seventh century was the search for a theology of Dt. 12 that was more fundamental than that which made it contingent upon the reforms of that time. Representative of this trend are von Rad and A.R. Hulst. Von Rad followed Welch in the view that it was mistaken to understand the legislation of Dt. 12 as a whole from the perspective of Josiah, going on to say that the laws in the chapter were a deduction from the theological conception of Yahweh's 'oneness'.[48] Hulst, in a similar vein, referred to the oneness of God, the oneness of the people, and opposition to foreign religion.[49]

These trends illustrate how much opinion about the background of the laws affects their interpretation. A recurring theme in the above works just mentioned is the tendency to see the central thrust of the chapter as opposition to foreign religion rather than a demand for a single altar. This has the effect of suggesting a rather earlier *Sitz im Leben* than the traditional one, since opposition to foreign religion is likely to have been registered in the early days of Israel's settlement in the land. Such a tendency is in agreement with our investigations so far about the altar-law and sacrifices.

Welch and his successors made definite progress, therefore, in understanding Dt. 12 and the laws of sacrifice. In taking a different approach to the question of the *Sitz im Leben* of the chapter, they also shifted the balance away from purely literary-critical analyses of the chapter, since, as we have seen, the search for *Sitz im Leben* and literary analysis go closely together.

The Failure to Integrate the New Approach with Literary Criticism

None of these scholars succeeded, however, in bringing together the meaning of the chapter on the one hand, and *Sitz im Leben* on the other, in a way that was entirely satisfactory. Welch, for example, has been criticized for not having been able finally to relate his approach satisfactorily to the old literary-critical positions, especially in taking the view that 12.1-7 constituted a demand for centralization, and that number-change could be a criterion for source-analysis.[50] Von Rad too clung to literary-critical tenets in considering vv. 13-19 to be the earliest part of Dt. 12 because the singular is used there.[51]

I want to ask, therefore, whether the theology and interests of Dt. 12 can really be determined while the conclusions of the literary critics are still presupposed. Those conclusions depended to a large extent, as we have seen, on the belief that Dt. 12 arose in close dependence on the events attending Josiah's reform. They have continued to be used even where that close dependence is no longer maintained. The result may be seen in the analysis of von Rad. Von Rad, in maintaining the customary divisions of Dt. 12, lacks the sort of specific reasons for doing so that, say, Horst believed he had. In attempting to outline the features of what he calls the three 'versions' of the centralizing law (viz. vv. 2-7, 8-12, 13-19) he fails to show why these sections should be thought of as distinct versions at all. The difference between vv. 2-7 and 8-12, he suggests, is that while the former warns against following Canaanite practice, the latter speaks of a change within Israel's own arrangements for worship. This is based on v. 8: 'You shall not do according to all that we are doing here this day...' Rather, when the people are settled in their inheritance and know the rest which Yahweh has promised, they shall serve him at one altar.[52] This, however, is hardly the sort of difference that points necessarily to variant traditions or 'versions'. The two reasons for worshipping at one altar may quite easily be complementary, and their juxtaposition a simple development of thought which might take place within a single tradition. On the question of vv. 13-19, von Rad takes the view that what he regards as the characteristic feature of this 'version', viz. the law of profane slaughter, 'the others appear to assume tacitly'.[53] But if they do assume it tacitly, there is once again no ground, at least in the content of the sections, for saying that this one betrays a different origin. Even if the permission of profane slaughter is not assumed in vv. 2-7, 8-12, it can once again be seen, in vv. 13-19, as a development of thought from the earlier sections. As long as von Rad refrains from associating the supposed different versions of the centralizing law with specific historical circumstances, and does not find actual tensions or contradictions in what they advocate, he has no ground in their content for thinking them to have different origins. The only solid criterion he can offer is that of the change of number at v. 13, and we have already expressed doubt about the usefulness of this criterion.

Our own studies up to this point have led us to reject the traditional *Sitz im Leben* for a number of the laws of Dt. 12. The

altar-law, the permission of profane slaughter and the opposition to foreign religion all point to an earlier date than Josiah. There is nothing new in this in itself. What will be new in our interpretation of Dt. 12 and the function of its sacrificial legislation will be a readiness to consider the literary form of the chapter in an entirely new way. We have seen that questions of meaning and theology on the one hand are inseparable from those of form and background on the other. Our examination of these will, therefore, be undertaken as a single task.

Deuteronomy 12 and its Relation to its Wider Context

By way of a preliminary, and perhaps rather obvious, observation, it has to be said that Dt. 12 cannot simply be isolated from the rest of Deuteronomy. It is organically related to it both formally and theologically. This has emerged already from our study of the noun *māqôm* and related vocabulary in Dt. 1–11 and 12–26.[54] We discovered a consistent difference between the use of *māqôm* and the verb *bô'* in both parts of the book, such that chs. 12—26 appeared to have been constructed so as to embody formally the theological fact that these chapters concerned Israel's response to Yahweh, in the light of his sovereign action in their favour recorded in chapters 1–11. When Israelite worshippers *bring* (*hēbî'*) their sacrifices to the place which the Lord shall choose, and *go* there (*bô'*), they respond in an exact way to Yahweh's bringing them (*hēbî'*) to 'this place' (as in e.g. 1.31). Similarly the verb *bāḥar* belonged to a broad deuteronomic emphasis on Yahweh's sovereignty. We drew the conclusion in the preceding chapter that this suggested that the so-called centralizing law expressed a fundamental theological requirement rather than constituting a demand for centralization at one time and in one place. There are further implications, however, for the interpretation of Dt. 12 within the book as a whole. It is significant that the use of the *bô'—māqôm* vocabulary is especially prominent at the point where the first part of the book gives way to the second part, viz. between 11.29 and 12.6, and also in the closing chapter of the legal section, ch. 26. Chapter 12, therefore, has to be considered against the backcloth of the use of related material in the whole book. When this has been done, as it was above—it emerges that ch. 12 is of critical importance in expressing the fundamental deuteronomic concern, that Israel should respond in worship to Yahweh's election of the people. The same sort of vocabulary relations express the same theological fact at

the point where the legal corpus is about to give way once again to the 'framework', viz. ch. 26.

It is important to notice that it is the first part of Dt. 12, vv. 1-12, which is related, in vocabulary and theology, to the framework of Deuteronomy. Here is an indication that the trend to which Welch and his successors gave impetus, namely the tendency to see the opposition to pagan worship as the fundamental concern of Dt. 12, is on the right lines. And confirmation of this is furnished by an examination of those particular passages in the framework which we found to reflect on the vocabulary and ideas of ch. 12 (viz. 1.31ff.; 9.7; 11.5, 12, 29ff.; and cf. 26.1-3). What these passages have in common is their affirmation that Yahweh is bringing Israel to 'this place'. The context in every case is Israel's exodus from Egypt and the fact that it is about to take possession of the promised land. In some of the passages cited, there is express reference (in their immediate context at least) to conflict with the nations who already live in the land (1.31ff.; cf. vv. 28-30; 29.6), and in 11.26ff., the passage that is most immediately related to ch. 12, there is a specific command not 'to go after other gods which you have not known' (v. 28). This leads into the command in 12.4 that Israel shall treat its God differently from other gods: 'You shall not do this to the Lord your God'.

An Analysis of Deuteronomy 12

There is, therefore, a bridge between the opening section of Dt. 12 (vv. 1-4) and the theology of Dt. 1–11. In particular the command to worship Yahweh differently from the manner of foreign worship corresponds to the closing verses of ch. 11. This first section of ch. 12 (vv. 1-4) may also be seen as the logical foundation of the remainder of the chapter. Instead of worshipping like the Canaanites, Israel shall bring their offerings to the place which the Lord will choose (vv. 5-12). As a concession to this rule and because of the difficulties it might cause, animals may be slaughtered non-sacrificially for food (vv. 13-25). The principle of sacrifice at the chosen place is then re-affirmed (vv. 26-28). And finally the over-arching concern, a pure worship untainted by Canaanite influence, is re-stated (12.29–13.1) with a repetition of the exact words of v. 4 in v. 31a (except that it is in the singular).

That the foregoing is the correct way to understand the logic of ch. 12 is confirmed by the strikingly parallel structure of Dt. 7. The analogies appear from the following table:

7.1-5	Command to destroy the peoples & religion of Canaan	12.1-4	Command to destroy the peoples & religion of Canaan
7.6-11	God's choice of Israel as a holy people	12.5-12	Israel's holiness reflected in command to worship at chosen place
7.12-16	Enjoyment of abundance of the land as corollary of holiness	12.13-28	Enjoyment of abundance of the land as corollary of holiness, and applied to cultic realm in terms of 'free' slaughter
7.17-26	Warning against ensnarement by foreign religion	12.29-13.1	Warning against ensnarement by foreign religion[55]

The table shows the extent to which ch. 12 is a development of the ideas of ch. 7. Chapter 7 is dominated by the idea of Israel's holiness to God by virtue of his choice of the people (vv. 6ff.), and with the corollaries of the need to extirpate foreign religion (vv. 1-5, 17ff.) and the bounty which is prepared for the people in the land. Because of the close analogy between the two chapters it seems to us that the same complex of ideas is the best clue to an understanding of ch. 12.

12.1-4, 29–13.1

These two sections frame the chapter and set its tone as an exhortation to remain distinct from the surrounding nations. That 12.29–13.1 consciously return to the theme of vv. 1-4 is suggested by the similarity of vocabulary used (cf., e.g., vv. 4 and 31). The affinity with 7.1-5, 17-26 is both formal and logical. 12.30 has a formal echo of 7.25 in its exhortation to avoid ensnarement by foreign religion. And both chapters exhibit the logical peculiarity that a command to destroy Canaanite religion (7.1-5; 12.1-4) gives way to commands which presuppose the continued existence of such religion. That the same logic occurs in both places suggests that Deuteronomy is fundamentally both idealistic and realistic, rather than that the weaker command reflects the disillusionment of years of failure.

12.5-12

It should be said that the divisions we are observing within ch. 12 are not hard and fast. Thus clearly v. 4 cannot be ultimately separated from v. 5. Yet vv. 5-12 may be bracketed together because they constitute the most sustained exhortation that the people should

bring their offerings to the place of Yahweh's choice. In the case of the sub-section as with the chapter as a whole, repetition helps to define the extent and theme of a section, in that vv. 11f. substantially re-iterate the thrust of vv. 5-7. As we note below, the relation between vv. 5-7 and vv. 11f. is so structured that the repetition must be considered part of Deuteronomy's didactic style rather than the result of the juxtaposition of different 'versions' of a basic law (von Rad).

The table shows that 12.5-12 is parallel with 7.6-11. The latter is an exposition of the holiness of Israel, stressing the fact that holiness depends upon Yahweh's choice, but noting too (v. 11) that obedience is an essential dimension of it. In 12.5-12 the theme is equally that of Israel's holiness, but now viewed in terms of the implications of that status for how it behaves towards Yahweh. The obedience-dimension is now in centre-stage, rather than that of God's sovereign choice. (This contrast between 7.6-11 and 12.5-12 thus furnishes further evidence for the sustained interplay between the diction of chs. 1–11 and that of 12–26, besides that which we noticed in our discussion of the altar-law. Here as there the language of chs. 12–26 reflects response to Yahweh's action in chs. 1–11.) That the exhortation to come to the sanctuary is indeed a factor of the people's holiness is indicated by the injunctions of vv. 2-4. The people are to worship differently from other peoples—and that 'differentness' is constituted in their worship, by their resorting to 'the place which the Lord will choose'. The parallel between 7.6-11 and 12.5-12 shows once again that the requirement to bring offerings to the place of Yahweh's choice is explicable in terms of a fundamental theological principle of Deuteronomy, rather than a contingency-plan associated with one or other of the centralizing reforms.

Verses 13-28

Here again we have two framing sections (vv. 13f. and 26-28, being versions of the altar-law), and a centre-section, vv. 15-25, containing the permission to slaughter freely and the concomitant prohibition of eating the blood. The relative lengthiness of the middle section (vv. 15-25) shows that it is here that we must seek the real point of vv. 13-28, the shorter framing section merely showing that that point is somehow related to or derived from the altar-law itself. It is in vv. 13-28 above all that scholars have sought evidence for the composite character of ch. 12. Cholewinski, for example, taking a

view not unlike that taken earlier by Horst,[56] believed that both on the matter of profane slaughter and of blood-prohibition, vv. 20-25 were a step away from vv. 15f. in the direction of Lev. 17.3ff.[57] But in reality the expansion in relation to vv. 15ff. which is undoubtedly present in vv. 20-25 adds little or nothing, apart from the explanation of the blood-prohibition, to the meaning of the law as expressed in the earlier verses. In the case of the gazelle and hart, there is expansion almost for its own sake. Once again, furthermore, it is possible to show that the repetitions correspond to each other in such a detailed and complex way that they must be regarded as a parenetic stylistic device, and as complementing rather than contradicting each other.[58]

Finally, it is yet again the parallel with Dt. 7 that is most illuminating in regard to the meaning of 12.13-28. Dt. 7.12-16 follow on the declaration in 7.6-11 of Yahweh's choice of Israel to be his holy people, and the consequent command to be obedient. The theme then changes in 7.12-16 to the blessings which Yahweh will shower on Israel in return for that obedience. There will be neither barrenness nor illness (vv. 14f.); there will be subjugation of the other peoples (v. 16); but most important for our purposes, there will be plenty:

> . . . he (Yahweh) will love you, bless you and multiply you: he will also bless the fruit of your body and the fruit of your ground, your grain and your wine and your oil, the increase of your cattle and the young of your flock, in the land which he swore to your fathers to give you (v. 13).

12.13-28 also follow a section which we saw to treat the implications of Israel's holiness, viz. vv. 5-12. They take up explicitly the principle of blessing for obedience (v. 28; cf. v. 25). But more importantly vv. 15-25 are concerned with the particular manifestations of the blessing that are promised in 7.13. Here the plenty that is promised in 7.12ff. is presupposed. There will be meat to eat, 'as much as you desire' (v. 15), from the herd and the flock (cf. 'the increase of your cattle and the young of your flock', 7.13); and there will be 'grain, wine and oil' (also specifically mentioned in 7.13) from which the tithe may be offered. An assumption of abundance underlies the command to bring offerings in general.

Two things may be said about this relation between 7.12ff. and 12.13ff. First, apart from the fact that they occupy similar positions within the logical structure of their respective chapters, the latter

takes up the promise made in the former and relates it to questions that might arise from cultic requirements. If 7.13 raises the question as to the precise manner in which the blessing of much cattle will be realized, 12.15ff. furnish the answer in terms of the law of profane slaughter. Such grain, wine and oil, however, as is devoted to the tithe must still be taken to the central sanctuary. Second, the spirit of 7.12-16 is entirely preserved in 12.15-25. That is to say, even though the promise of plenty is now addressed from the standpoint of cultic requirement, the resources in question still accrue to the people. This is obvious in the case of profane slaughter which is explicitly conceived as a provision for the people to eat meat. But it is true also, and much more surprisingly, of the sacrifices listed in vv. 17f., which, while they must be brought to the central sanctuary, are also to be eaten by the people. We have seen already that it is this deuteronomic theme of eating, as part of a wider theme of blessing, that is the factor which unifies the provisions for profane slaughter and for the performance of sacrifices.

Deuteronomy's law of profane slaughter, therefore, cannot be seen purely as a response to the need of a given period. Within Deuteronomy, it is one expression of that book's insistence on the fact that the good things of the land are for the benefit of Israel. Once again the laws are consistent with Deuteronomy's stance on the verge of the land.

Conclusions of Comparison between Chapters 7 and 12

The detailed analogy which we have observed between chs. 7 and 12 of Deuteronomy has shed light on the real objectives of ch. 12. Those scholars who consider that the kernel of its legislation is a debate about the validity of profane slaughter have failed to see that the logic of the chapter makes profane slaughter a derivative of a fundamental theological statement about Israel's holiness, and in particular (because of the analogy with Dt. 7) an implication of that enjoyment of plenty which is a factor of holiness.

This does not mean that a *Sitz im Leben* for the laws of ch. 12 may not be sought. Since profane slaughter is subordinate to the demand for pure worship, and that in turn is the obverse of the opposition to foreign worship, its origins are likely to be the same as those of that opposition. We have already suggested that this is likely to have been an early development in Israel. Our study of the historical background of profane slaughter converges, therefore, with these observations about the literary content of the law to place it early in Israel's

history. It may have arisen as soon as the size of the land made it difficult to reach a recognized altar.

The Structure of Deuteronomy 12

We have had occasion in the course of our study of Dt. 12 to observe that the frequent repetitions are a matter of style, and serve the didactic purpose of the writer. The diagrammatical analysis of the vocabulary of Dt. 12 (see appendix to this chapter) is designed to show the complexity of the various sub-sections' interrelationships, and to argue therefore for the unity of the chapter. Four aspects of these interrelationships may be mentioned.

i. *Verses 1-4, 29–13.1.* We have referred to the repetition of the prohibition of v. 4 in v. 31. The analysis shows further that certain features of the prohibition in vv. 1-4 re-appear in reverse order in 12.29–13.1. Thus:

12.1	These are the statutes which you *shall be careful* to do	12.31	*You shall not do so*
2	Canaanite worship (the high mountains, etc.)	31	Canaanite religion (burning children)
4	*You shall not do so . . .*	13.1	Everything that I command you *you shall be careful to do.*

ii. *Verses 5-7, 11f.* We argued that these two sections marked off vv. 5-12 as a sub-section of the chapter. The analysis shows a double, and overlapping, chiasmus linking vv. 5-7 and 11f. The first involves the words *šēm* and *šēken/šikkēn*. Thus in v. 5: 'You shall seek the place which the Lord will choose from all your tribes *to put his name there for its dwelling-place* (*lāśûm 'et-šᵉmô šām lᵉšiknô*)'. And in v. 11: 'You shall bring all that I command you to the place which the Lord your God will choose to make his name dwell there (*lᵉšakkēn šᵉmô šām*)'. The inversion has been achieved by the use of the verb *lāśûm* in v. 5, and looks as if it has been deliberately contrived.

The other chiasmus in vv. 5-7 and 11f. involves the verb *hēbî'* and the word *šāmmāh* (vv. 6, 11). Notice also the chiasmus in vv. 8-10 involving the nouns *mᵉnûḥāh* and *naḥᵃlāh* and their corresponding verbs.

iii. *Verses 15-25.* These verses exhibit the most complex verbal pattern which our analysis of Dt. 12 has revealed. We notice that the

first permission of profane slaughter, with its accompanying blood-prohibition, occurs in vv. 15f., and that essentially the same command is repeated in vv. 20ff. Our vocabulary analysis now shows that these two sections are welded to each other by means of a triple, overlapping chiasmus. (a) Whereas v. 15 has *'according to all the desire of your heart (bᵉkol-'awwat napšᵉkā) you may slaughter and eat flesh (tizbaḥ wᵉ'ākaltā bāśār)'*, vv. 20f. have the same two expressions in reverse order (*bᵉkol-'awwat napšᵉkā*, v. 20, and *wᵉzābaḥtā* ..., v. 21). It must be said that the contrast here is not quite perfect because the phrase *bᵉkōl 'awwat napšekā* appears yet again at the end of v. 21, in keeping with the greater wordiness of vv. 20ff. (b) *'The clean and the unclean (haṭṭāmē' wᵉhaṭṭāhôr)* may eat of it *as of the gazelle and the hart (kaṣṣᵉbî wᵉkā'ayyāl), ... the unclean and the clean (haṭṭāmē' wᵉhaṭṭāhôr)*, alike may eat of it', v. 15 (cf. v. 22). (c) *'Only the blood (raq haddām) you shall not eat (lō' tō'kēlû)'*, v. 16; *'But be careful not to eat (raq ḥᵃzaq lᵉbiltî ᵃkōl) the blood (haddām)'*, v. 23.

iv. Notice finally the chiasmus within vv. 13f. involving 'your burnt-offerings' (*'ōlōtêkā*) and the noun *hammāqôm*, 'the place'. If we link this feature back to v. 11 then we have the sequence: place-offerings; offerings—place; place—offerings, a pattern which may weld the two major sections of the chapter together.

The patterns we have observed suggest a unity of composition in ch. 12. These considerations of form support our contention based on the comparison of chs. 7 and 12 that it is impossible to isolate different underlying 'versions' of the altar-law or of the law of profane slaughter. In reality ch. 12 is a coherent piece of rhetoric with a single thrust. It is particularly noteworthy that the major criterion which used to be used for identifying underlying sources, that of number-change, is completely transcended by the considerations we have adduced. Our observations fully support the contention of Lohfink that number-change need not be an indicator of underlying sources, but can in fact be a rhetorical device, used for arresting attention.[59]

Conclusions to Chapter 3

In the present chapter we have pursued further our aim of examining the cultic laws in their context in Deuteronomy, to see what is revealed about their character and function, and also about their historical background.

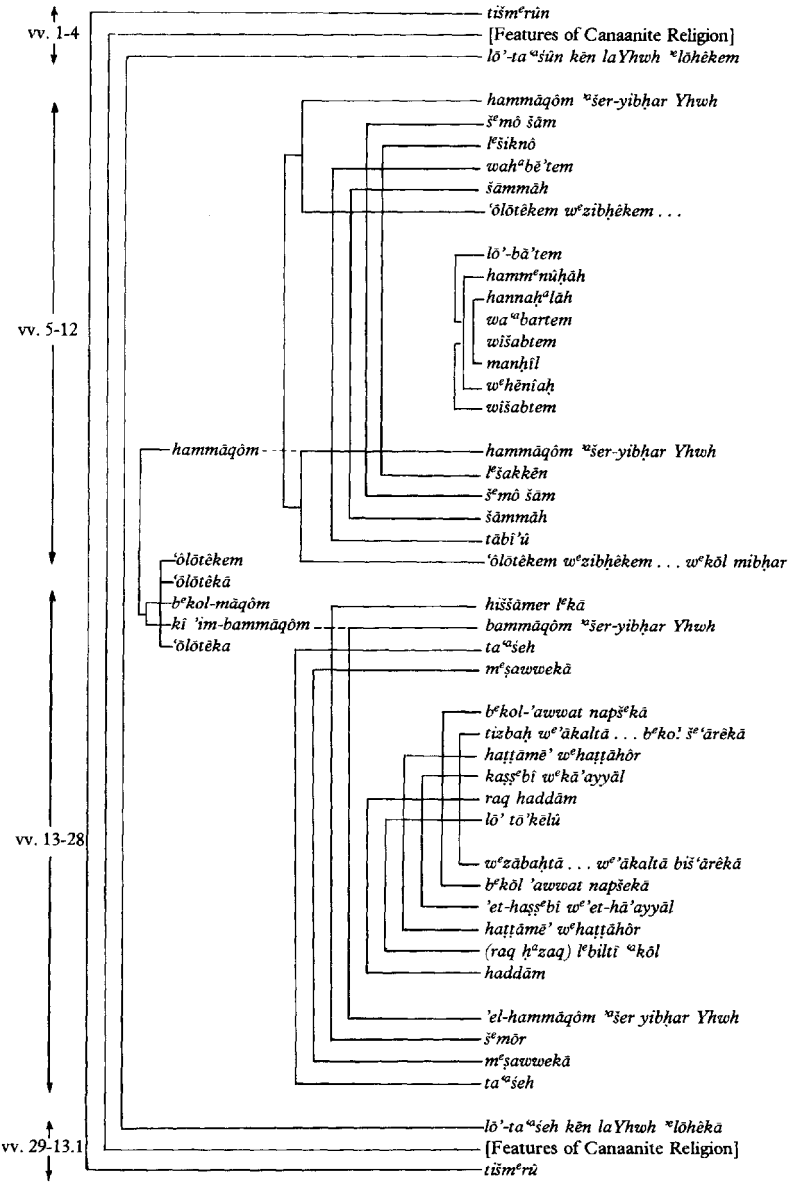
We began by discussing the commonly held view that the background to the laws of sacrifice in Dt. 12 was the reforms of the seventh century, showing how this was reflected in the approach to the form and interpretation of the laws. The permission to slaughter freely (vv. 15f., 20ff.) was a major argument in favour of a seventh-century date. Our study showed, however, that profane slaughter was known in Israel prior to the seventh century, and probably also a law permitting it, such as that of Deuteronomy.

We then proceeded to a study of the structure and meaning of the terms of ch. 12, which, illuminated by a close analogy with ch. 7, yielded the result that both the exhortation to bring offerings to the place of Yahweh's choice and the permission of profane slaughter (with concomitant blood-prohibition) were implications of Israel's status as a people holy to Yahweh. There was thus a theological unity in the chapter which rendered unnecessary, indeed unintelligible, any appeal to a gradual growth of the chapter based on polemic (e.g. surrounding profane slaughter). Our observations about the inter-relationships of the vocabulary of the chapter supported fully the contention that it was essentially a unity.

The laws of ch. 12, therefore, illustrate a number of the deuteronomic themes set out in our Introduction, viz. the holiness of Israel, together with opposition to foreign religion, and the promise of blessing in the land, which is always related to that of the people's response. We saw in the last chapter that the theme of response fundamentally characterized the altar-law.

These observations about the theology of Dt. 12 are consistent with the view that the background to the laws is an early period in Israel's history. The laws of profane slaughter and the opposition to Canaanite religion in particular pointed to an early period. The whole chapter, then, may considerably pre-date Josiah. Indeed we may go further and say that the concerns underlying the laws in ch. 12 are consistent with Deuteronomy's self-understanding as exhortation on the verge of the promised land.

Vocabulary Analysis of Dt. 12



Chapter 4

THE TITHE

In the first two chapters we have examined Deuteronomy's altar-law and the laws of sacrifice in ch. 12. The study of these two subjects is an essential foundation on which that of individual cultic offerings and institutions must be built. This is because all the laws which we have to study contain the altar-law; and all but one (that of the feasts) is mentioned first in ch. 12. After ch. 12 the next detailed cultic legislation occurs at 14.22-29 and concerns the tithe.

Our method in studying the tithe-laws will be similar to that adopted in the preceding chapter. We shall first of all compare Deuteronomy's legislation with that in other codes. Then we shall see how the differences between the codes have been interpreted in the past, and what their historical background has been thought to be. Having considered these views critically, we shall proceed to a contextual study of the main tithe-law in Deuteronomy, 14.22-29. This will be done a. in its immediate context in ch. 14, and b. against the wider background of Deuteronomy as a whole.

I

The Law of Deuteronomy and Other Tithe-Laws

Of all the cultic laws in Deuteronomy, that which relates to the tithe has seemed to interpreters to differ most radically from corresponding laws elsewhere. For Driver, as we have noticed, the law in Deuteronomy is in 'serious, and indeed irreconcilable conflict' with that of P.[1] The P laws are contained in Lev. 27.30ff. and Num. 18.21ff. The former passage requires both a vegetable- and a cattle-tithe, the material in question being designated 'the Lord's'. This tithe is redeemable in money, on payment of one-fifth over and above the animal's value. In the Numbers passage the tithe appears to be a levy

for the Levites (18.21), although they must in turn pass on a tenth of it to the priests. The materials constituting the tithe are not specified.

The fullest statement of Deuteronomy's tithe-law is at 14.22-29. What distinguishes it above all, especially in relation to P, is the fact that it is intended normally to be consumed by the offerer. While it is to be eaten only at the sanctuary (12.17f.), the concession is made (14.24ff.) that those who live at some distance may sell their tithe-produce and, at the sanctuary, use the proceeds to repurchase anything they desire to consume. This is evidently not to be understood as 'redemption' (in terms of Lev. 27.30ff.) since there is no thought of paying over and above the value of the goods. In the third year (sometimes thought to refer to the third and sixth years of the sabbatical cycle)[2] a different disposition was made. The tithe-material was not taken to the sanctuary, but kept in the towns, where it was used for charitable purposes (14.28f.). The cultic connection is not severed, however, for 26.12ff. records a declaration which had to be made, apparently in a cultic-liturgical context, to the effect that the tithe, here designated a *qōdeš* (v. 13), has been properly disposed of. The tithe of Deuteronomy, like that of Numbers, is associated with the Levite (12.19; 14.27; 26.13). This association, however, does not seem to amount to a legal right in Deuteronomy such as is apparently implied in Numbers. And furthermore, the deuteronomic stipulation about the Levite, viz. that the people should not forsake him, occurs not only in connection with the tithe but also with firstlings, free-will offerings, heave-offerings (*t^{e}rûmôt*) and feasts (12.17-19; 14.23; 16.11, 14).

These special difficulties which attend the interpretation of Deuteronomy's tithe-laws in relation to other tithe-laws in the OT have led to a variegated history of their interpretation. Attempts to interpret them, as was the case with the other laws we have studied, have conceived the central problem to be the need to determine the relation of the deuteronomic laws to the non-deuteronomic laws in terms of the history of Israel's cult. We proceed now to an examination of some of these attempts.

The History of Interpretation

With some exceptions,[3] nineteenth century critical scholarship quickly rejected the old Jewish postulate of several tithes as an attempted resolution of the differences between Deuteronomy and other codes. Wellhausen traced the development of what he believed was essentially

a single tithe throughout Israel's history, having obscure origins in close association with firstfruits and firstlings, and in the context of the carefree spontaneity which he believed characterized early Israelite religion.[4] This tithe became by the time of P little more than a tax due to the clergy, and a burden upon the people.[5]

Wellhausen's neat picture exerted much influence on commentators on Deuteronomy (including Driver, with his 'irreconcilable conflict' between D and P). But later critics modified Wellhausen's view in certain important ways, the chief stimulus coming from Eissfeldt. Eissfeldt, while he accepted a broad evolutionary development from D to P, made three significant points. 1. There were some indications that the tithe in Deuteronomy, like that of Num. 18, had a certain character as a tax, namely in the very quantifiability of the tithe and its capacity to be made over,[6] and in the use of the term *qōdeš* in Dt. 26.13 to describe the third-year tithe.[7] 2.As a corollary of the first point, Eissfeldt, in common with others, thought it unlikely that *all* of the tithe would actually have been consumed by the offerer.[8] 3.Finally he attempted to explain the peculiar features of Deuteronomy's law of tithe in terms of particular emphases of the theology of Deuteronomy—drawing attention to the fact, for example, that numerous offerings are said to be consumed in Deuteronomy though no such suggestion is made in parallel legislation.[9] This appeal to deuteronomic motifs is a major departure from Wellhausen's tendency to view the different OT books rather flatly, as furnishing evidence all in much the same way of Israel's cultic institutions. The view that Deuteronomy stresses aspects of an actual institution, and that its particular interests prevent all the details of the institution from appearing, presents an important challenge to the belief that it is possible to chart the progress of the tithe from one literary source to the next.[10]

One further point may be made in support of the premise that Deuteronomy is well aware of the character of the tithe as a tax. In Dt. 10.9 we read:

> Therefore Levi has no portion or inheritance with his brothers; the Lord is his inheritance, as the Lord your God said to him.

If it can be assumed, as seems reasonable, that the words 'as the Lord your God said to him' refer to another statement recorded in the OT, then the only possibility is Num. 18.20, where it is said of Aaron, in the context of enumerating his perquisites from the

sacrifices of Israel, that the Lord is his portion and inheritance. The fact that Num. 18 speaks of Aaron and Dt. 10.9 of Levi is almost certainly of no consequence as far as establishing the relationship is concerned.[11] It is likely, therefore, that Deuteronomy, at this point, knows of the tithe-law of Numbers, and therefore that the tithe-law of Deuteronomy is framed with cognizance of it. The analogy with Num. 18 implies, furthermore, that the phrase 'the Lord is his inheritance' (Dt. 10.8) means in concrete terms that the Levite has a right to certain income from the cult. We must now inquire further whether Deuteronomy does have such an understanding of the tithe, and is actually addressing the law of Numbers, in order to modify it.

The question has been answered both negatively and affirmatively. Eissfeldt believed the tithe of the third year (Dt. 14.28f.) was desacralized. To the objection that the term *qōdeš* was used of it, he replied that it was merely an anachronism.[12] Weinfeld went further than Eissfeldt. For him Deuteronomy made the whole tithe into something very different from what it had previously been. Having stated that the tithe's original purpose was the maintenance of the temple and its personnel, he goes on to say: 'It is only Deuteronomy which stripped the tithe of its original purpose and turned it into an obligatory gift to the destitute and the poor'.[13] He then argues that, once the provincial sanctuaries were abolished, there was no more need for the tithe. It was kept in order to preserve an ancient institution; but it was no longer a tax, merely a 'philanthropic gift'.[14] The differences between the laws of Numbers and Deuteronomy are thus expounded in terms of Weinfeld's wider view of the 'secularizing' character of Deuteronomy, whose purpose was 'to curtail and circumscribe the cultus and not to extend or enhance it'.[15] The differences are maximized, and the old cultic tithe is thought to be legislated out of existence in Deuteronomy. Weinfeld's interpretation has in common with the traditional Jewish idea of a second tithe the belief that the tithes of Numbers and Deuteronomy are entirely incompatible with each other.

There are difficulties with Weinfeld's position, however. The chief objection to it is that it does not do sufficient justice to the control which is exercised over the gift of the tithe in Deuteronomy by the sanctuary. In two years out of three it is to be consumed in the temple environs. It is true that a remarkably liberal concession is made in 14.24ff., according to which the offerers of the tithe who live at some distance from the sanctuary are permitted to commute their tithe-

material into money and repurchase food and drink, of whatever kind they please, at the sanctuary, as a substitute for the original. This measure corresponds to the permission to slaughter freely in 12.15ff. But it differs from profane slaughter in that it must still be consumed at the sanctuary. While the freed *zebaḥ* really does lose its sacred character, the tithe cannot be said to have done so for this reason. The case for Eissfeldt's view that the tithe of the third year only is secularized is not wholly convincing either. It is true that the analogy with profane slaughter is closer here than in the case of the regular tithe. But the control of the sanctuary remains in that the proper disposal of the tithe-produce has to be confessed there (26.12-15). It is here too that the term *qōdeš* is applied to it (v. 13). The statements in v. 14, furthermore, can only be understood to arise from a concern not to defile something holy. The offerer has been careful to remain ceremonially clean while removing the tithe from his house. This suggests that it was regarded as a sacrifice (cf. Lev. 7.20f.). The references to eating when in mourning and to giving to the dead are obscure, but seem to serve the same purpose as the statement about cleanness.[16] To argue, therefore, as Eissfeldt does, that the word *qōdeš* in this place is anachronistic, is special pleading. Milgrom has rightly observed, in contrast to Weinfeld,[17] that even if centralization meant that the tithe was no longer needed for the sanctuary income (since the Jerusalem temple may have been able to subsist on other, voluntary offerings) Deuteronomy, 'by insisting that the tithes be brought to Jerusalem . . . endeavoured to maintain their sacred character. They were to be eaten in a state of purity (26.13-14) and in the Temple environs (14.23).'[18] He goes on to say that '. . . Deuteronomy's cultic innovations are not radical, at least in regard to the tithe'.[19]

Even though Milgrom's position probably rests rather too heavily on ambiguous Babylonian evidence, it does more justice to the biblical material itself, it seems to me, than the position of either Weinfeld or Eissfeldt. The relation between the laws of Numbers and Deuteronomy is one of essential continuity because the tithe is in every case a due paid to or controlled by the temple and its personnel. (This is true also, incidentally, of Lev. 27.30ff., where the tithe is said to be 'holy to the Lord'.)

The question is not yet answered, however, why Deuteronomy presents the tithe differently from Numbers and Leviticus. If anything, it makes it more acute. But the fact that Deuteronomy's law indicates

a feast involving the offerer and his family is not necessarily incompatible with its character as a temple-tax also. As we saw, Eissfeldt remarked, no doubt rightly, that there must have been a good deal of material left after the deuteronomic meal (assuming that such meals ever actually took place) which might have been paid to the temple.[20]

The Tithe and the Levite

The suggestion that the tithe of Deuteronomy may have been in part a tax for the upkeep of the temple and its personnel, and therefore not unlike the tithe of Num. 18.21ff., inevitably raises the question as to the relation of the tithe to the Levite in Deuteronomy. This has traditionally been considered one of the main points of difference between the presentations of the tithe in Deuteronomy and Numbers.[21] However, certain factors suggest that Deuteronomy did after all recognize the Levite's right to receive the tithe, just as Numbers did.

1. Deuteronomy assigns offerings to 'all the tribe of Levi' (18.1). Whatever view is taken of the relation of the priests and Levites in Deuteronomy, it is clear that all Levites are included in this broad term. Levites do seem to have a right to certain dues therefore. What exactly they were can probably not be ascertained from 18.1ff., but that does not affect the main point.[22]

2. We saw above[23] that to say 'the Lord is their inheritance' (18.2) actually indicates a right to certain dues. This would mean that the expression, when it occurs (and even the corresponding 'they shall have no (land-)inheritance') constitutes a command to Israel to give dues to the Levite and a statement of his right to have them.

3. There is a hint in 18.8 that the Levites disposed of property. The phrase *lᵉbad mimkārāyw 'al-hā'ābôt* is notoriously difficult. RSV's 'besides what he receives from the sale of his patrimony' probably represents the most common interpretation,[24] although Ehrlich dissents.[25] However it is understood, the reference appears to be to some form of priests' income. That Levites did actually dispose of property appears from Neh. 13.10, where they are said to have 'fled, each to his field'. Both Dt. 18.8 and Neh. 13.10 seem to have in mind property already held, rather than current income from the altar. What sort of property is meant we cannot discuss at this stage.[26] But the assumption in 18.8 that Levites had property to dispose of suggests once again that they were not poor. The law may envisage a situation in which the Levite had already grown wealthy through having had a steady income.

Finally, the terms used to commend the Levite to the care of Israel may contain a hint of compulsoriness. The command 'take heed lest thou forsake the Levite' (cf. 12.19; 14.27) is reminiscent of 8.11: 'take heed lest thou forget Yahweh'. There is therefore an analogy between remembering the Levite and remembering God himself. The closeness of the parallel is not diminished by the fact that *'āzab* is used in one place and *šākaḥ* in the other. The two verbs are often used in a parallel relationship.[27] The real point is that the strength and absoluteness of the latter command reflect on the former. Israel must not forget God. That is the message not only of 8.11ff., but of the whole of Deuteronomy, and failure in that respect is attended by the severest of sanctions. The analogy suggests that the exhortation not to forget the Levite is more than simply an appeal to the offerer's generosity. On the contrary, it has the force of a command. There is no specific guideline as to the manner in which provision should be made. But if the command not to forget the Levite, and the reminder that he has no inheritance, have the force we have suggested, the references to him would be consistent with the view that the particular manner of provision would have been familiar to both author and readers of Deuteronomy.

We have, therefore, a number of reasons to think that Deuteronomy does not after all present the Levite as poor, but that it may envisage income for the Levite that was his right. It cannot be shown, as Eissfeldt tried to show, that this consisted of the tithe.[28] But if the Levite had income at all, this may, of course, have been intended to be part of it.

We have now seen that the essential character of Israel's tithe was that of a tax. This tax-character is discernible in Deuteronomy, which does not challenge the conception of Numbers. The author of Deuteronomy's law has, in all likelihood, simply assumed tacitly that what was not consumed in the festal meal would go to the clergy.

The Tithe-Laws in the Second Temple

The foregoing indicates that there was in ancient Israel a single, basic tithe-institution, which is reflected in different ways in the laws of Deuteronomy and P, and whose essential character was that of a sacral due paid to the temple and its personnel. There is some confirmation of this in late biblical literature, where only one tithe appears to be known. The best evidence for the application of the tithe-laws in the period of the second temple is in the book of Nehemiah.

It is sometimes thought that the book of Nehemiah, in common with Chronicles and Ezra, drew exclusively on P for its understanding of cultic laws. Myers, commenting on Neh. 10.38 (37 EVV), mentions only the legislation of Numbers as a background to the tithe of Nehemiah, even though he recognizes deuteronomic influence elsewhere in the immediate context, as in the case of the firstfruits.[29] Rudolph derives Nehemiah's tithe explicitly only from Num. 18, to the exclusion of Deuteronomy.[30] But the cultic terminology in Nehemiah is not exclusively from P. In fact very little of it is present in P and absent in Deuteronomy.[31] There are also some terms not easily traceable to either.[32] And furthermore, in contexts immediately associated with the tithe, there are two expressions which come from the tithe-law of Deuteronomy, and which are absent from P. These are 'year by year' (*šānāh bᵉšānāh* in Neh. 10.36, *šānāh šānāh* in Dt. 14.22; cf. 15.20), and 'the tithe of the grain, wine and oil' (Neh. 13.12; cf. Dt. 14.23). It seems therefore that Nehemiah's use of the cultic terminology is informed by the terms of the legislation of both P and Deuteronomy. For the tithe in particular, Nehemiah knew the legislation of Deuteronomy as well as of Numbers and Leviticus, yet represented only a single tithe. Here is what ought to be a final answer to the old Jewish solution. The idea of multiple tithes, having ancient Jewish tradition behind it, should not be lightly dismissed. But it fails because it is not the *most* ancient Jewish interpretation. That honour belongs to the book of Nehemiah, whose author knew all the relevant laws but only one tithe.[33]

In Neh. 10.38 we read: '. . . and the Levites shall bring up the tithe of the tithes to the house of our God, to the chambers, to the storehouse'. In the light of the tendency in Nehemiah to present offerings as temple-provisions, this statement is a remarkably scrupulous one, for it specifically excludes nine-tenths of the tithe from this function. It is clear, of course, that a hat is hereby raised to Num. 18.26, where the Levites, having received the tithe, are required to give a tenth of it 'to the Lord', i.e., to the priests.[34] But it is not an exact observation of that law. The law of Numbers envisages a division between priests (one tenth) and Levites (nine tenths). The whole tithe is still given for the service of the cult. In Nehemiah, however, the division is between temple (one tenth), and elsewhere (nine tenths—this being left, presumably, throughout the country).[35] In fact, priests and Levites alike shared the tenth of the tithe that went to the temple, each drawing 'the portions required by

the law' (12.44) from it. Here we see how in Nehemiah's time observance of the law was conditioned by the actual circumstances then obtaining.[36] The vague term used here (*m^{e}nā'ôt hattôrāh*) may be evidence of a rather loose interpretation of the laws, in keeping, perhaps, with the particular needs of the time.

What happened to the nine tenths cannot be said. There will, of course, have been Levites outside Jerusalem, so it cannot safely be concluded that the association with them is broken here, especially in view of the fact that all the tithe was collected by Levites. To this extent it may still have been a cultic due of a sort. The Levites of the country cannot, of course, have received the tithe in return for their 'service at the Tent of Meeting', according to the terms of Num. 18.21. In any case, it is hard to find any legal justification in P for a disposal of the tithe away from the temple. (We saw in connection with Lev. 17.3ff. that sacrifices were strictly limited to the altar in P.)

The only possible legal precedent for the disposal of some of the tithe away from the altar comes from Deuteronomy, despite the control which the sanctuary exercised there too. This precedent consists in the tithe of the third year, which was to be consumed 'in your towns' (Dt. 14.28), by the widows, sojourners and orphans as well as by the Levites. It would not be surprising if those who applied the law in Nehemiah's time had made a more general application of Deuteronomy's third-year principle. They did, as we saw, interpret Num. 18 with some latitude, and may have approached Deuteronomy in a similar manner. The book of Nehemiah, therefore, possibly represents one practical response to the different requirements of the different laws. It reinforces the impression that, when the tithe was paid faithfully, there was sufficient material both to support the needs of the temple and for disposal in other ways. Since the law of Deuteronomy was known in Nehemiah's time, it is at least possible that that disposal bore some relation to it, in terms of consumption by the offerers and provision for the poor.

A Synthesis

If the tithe of Deuteronomy is to be understood partly or wholly as a sacral levy for the upkeep of the temple it follows that it cannot have been intended to go in its entirety as a feast for the offerers and dependants. In fact this has been widely accepted since Eissfeldt, and several modern commentators have espoused the same view.[37] On the animal-tithe of Lev. 27, J.A. Thompson thinks that Numbers and

Deuteronomy may simply have taken it for granted.[38] The laws of Numbers and Deuteronomy themselves, understood together, may simply mean that the offerer of the tithe kept back some of what was due to the temple for his own consumption there. The underlying assumption is that in none of the laws is the tithe as an institution fully represented. Each law gives only a partial picture, omitting much that would have been taken for granted by contemporaries. The tithe could then be understood to have had numerous simultaneous uses.[39] In adopting a solution like this, we have to be careful not to go beyond the evidence, however. This is because, while the laws of Deuteronomy betray marks of the levy-character appropriate to the P-laws, the reverse is not the case; that is, there is no sign of a festal aspect in P. This may mean that Deuteronomy innovates. (Innovation is not in itself surprising. Deuteronomy's tithe-law does innovate in its concession about distance from the sanctuary, 14.24ff.) We have argued that Deuteronomy's law is preceded in time by that of Numbers. Its innovation would therefore be over against that law rather than the conditions represented by JE. Our study has shown, however, that such an innovation would not constitute a radical break with the law of Numbers, because the tithe's character as a levy is retained. It must also be remembered that the Numbers law, like that of Deuteronomy, is in a particular context with a particular purpose. Num. 18.8-24 treats, as we have seen, of the status of the tribe of Levi over against the rest of Israel, and this may have tended to concentrate the narrative upon their rights, giving an impression of exclusiveness.

Whether Deuteronomy innovates or merely emphasizes existing aspects may ultimately be impossible to determine. It is not, however, the most important point. More significant is the fact that what is peculiar to the tithe-laws of Deuteronomy is not an isolated feature in the book, but a part of a pervasive tendency. We have noticed this at an earlier stage of our study.[40] Like the tithe the firstlings apparently go entirely to the clergy in P (Num. 18.15), but are consumed by the offerer in a meal in Deuteronomy (15.19ff.). The parallel extends to *t*^{e}*rûmôt*, vow-offerings and freewill-offerings. The first of these tends to refer in P to priests' dues only;[41] the latter two, as *zebaḥ*-sacrifices, go in part to the priests.[42] Yet in Deuteronomy the priests' portions are passed over in silence (12.17). It is unlikely that this amounts to abolition of their rights. We have noticed that Deuteronomy, while it plays down the role of the priests in the cult in

general, is far from ignoring their rights (18.1-8). The form of the deuteronomic laws of tithe testifies once again to the power of the book's characteristic thrusts to mould legal material. It is precarious to try to reconstruct a history of the tithe on the basis of a law like this. The real question is, what particular deuteronomic themes and emphases have produced such a law. To this question we turn in the next section.

II

The Tithe-Law in its Context in Deuteronomy

a. *The Immediate Context*

In discussing the place of the tithe-law within Deuteronomy we shall examine it first of all in relation to other material in ch. 14, and secondly against the background of the themes of the books as a whole. (Dt. 26.12-15 will be referred to in this latter connection.)

There are indications that the tithe-law of 14.22-29 is related to the statement in 14.1f.:

> You are the sons of the Lord your God . . . you are a people holy to the Lord your God, and the Lord has chosen you to be a people for his own possession, out of all the peoples that are on the face of the earth.

The immediate impression given by the chapter is, of course, that the tithe-law in vv. 22ff. is sundered from this statement by the intervening laws regarding clean and unclean animals. However, if vv. 1f. are regarded as an introduction to vv. 22ff. we find a collocation of ideas which has analogies in other parts of Deuteronomy. Those ideas are as follows: chosenness (holiness), v. 2; fear of the Lord, v. 23; blessing, v. 24; giving to the sojourner, etc., v. 29. An almost identical collocation appears in 10.12ff.; chosenness, v. 15; fear, vv. 12, 20, 21; giving to the sojourner, etc., vv. 18f.; and, despite the absence of the verb *bārak*, blessing in v. 22, in the form of the promise of numerous posterity. The detailed character of the correspondence (in the inclusion of the exhortation to give to the sojourner) makes the parallel particularly striking. Another passage, 7.6ff., is equally important. We have seen at an earlier stage that vv. 7-16 draw out the implications of the statement of v. 6, viz. the blessing promised by Yahweh (vv. 13ff.). Our comparison of ch. 7 with ch. 12 showed that

the ideas of holiness and blessing were closely interwoven in both these chapters. There is an indication that the tithe-law too may reflect the ideas of ch. 7. The materials which compose the tithe-meal in 14.23—viz. grain, wine and oil, cattle and sheep—correspond exactly to the blessings of the land mentioned in 7.13. Since the blessing in ch. 7 is a consequence of the holiness of Israel, it is likely that the blessing intimated in 14.23 is also related to that holiness. And this is a further suggestion that 14.22ff. should be seen as a logical development from the statement of holiness in 14.1f.

There are also passages which establish a relation between chosenness and fearing. One such is the law of the king. The people may set over them 'him whom the Lord your God will choose' (17.15). And in v. 19 he is exhorted to study the law 'that he may learn to fear the Lord'. The importance of this analogy lies in the close verbal parallel with 14.23—establishing once again a connection between 14.2 and the tithe-law. 4.37-40 might also be mentioned. The ideas of choice (v. 37), blessing (v. 38) and fear (v. 40) are there, even if the verbs *yārē'* and *bārak* are not.

There is good reason to think, therefore, that the tithe-law in 14.22ff. is a particular application of principles which are fundamental in Deuteronomy, and that it follows specifically from 14.1f.[43]

What, then, of the laws regarding clean and unclean food? A comparison with passages in Leviticus and Exodus suggests that these too follow naturally from the statement of Israel's holiness in vv. 1f. Lev. 11.45 has the command to Israel to be holy as an explanatory conclusion to the laws of clean and unclean food that are the subject of the chapter. And Ex. 22.31 has a command to be holy, followed by a limitation on what may be eaten—in this case, a prohibition of flesh 'torn by beasts in the field'. It seems, therefore, that the juxtaposition of Dt. 14.3-21 and 22-29 is not merely accidental, but that the two sections are, rather, different explications of the command to holiness in vv. 1f.[44]

Indeed there are indications that, not only is this the case, but that the two sections are interconnected in a way that might well be deliberate. First, both have to do with eating.[45] (We have already seen that this theme, as an expression of the idea of blessing, has considerable influence on the form of the laws of sacrifice in Deuteronomy.) Verses 3-21 place restrictions on what the holy people may eat; vv. 22-29 give more positive instructions about what must be done with food that may be eaten. It is possible, in fact, that

vv. 3-21 stand as a preamble not only to the law on tithe but to all the specific laws which require cultic dues to be eaten.[46] Its association with the deuteronomic motif of eating may indeed explain why the laws of clean and unclean food are present in Deuteronomy at all, even though other laws of cleanness and uncleanness are absent.

The use of the verb *'ākal* in ch. 14 gives further reason to believe that the two parts of the chapter are interconnected. In the occurrences of the verb in the chapter, a pattern emerges in the relation of the verb to its object. Ten times the object precedes the verb, so that this might be said to be the normal word-order.[47] Twice (vv. 26, 29) there is no object. And three times the normal order is reversed, so that the verb precedes the object.[48] Such a reversal does not occur in Lev. 11.[49] Rather, throughout Lev. 11, and in Dt. 14 with only the exceptions noted, the object-verb order is carefully preserved by use of *zeh* or *zô't* in an anticipatory position. This leads us to suspect that on the three occasions where the order is reversed, the author of Dt. 14 has some particular purpose in doing it.

Our suspicion begins to be confirmed when we notice that the three occurrences in question are in introductory positions. In v. 3 it is the first command about eating in the section on clean and unclean food. In v. 23, correspondingly, it is the first command about eating in the section on the tithe. In each case it is the basic statement of a theme that is then elaborated in the ensuing verses. And furthermore, the latter constitutes a direct contrast to the former, reflecting perhaps a contrast in mood between the two sections. The first (v. 3) is negative ('You shall not eat any abomination . . . ') as the tone of vv. 3-20 is negative. Israel, as God's holy people, may not eat certain things.[50] The second, 'You shall eat . . . the tithe . . . ' (v. 23), seems to reflect a conscious change in mood towards the positive command that Israel, as God's holy people, shall eat and enjoy the produce of the land he gives them. Verse 21 contains the remaining instance of the verb *'ākal* preceding its object (apart from vv. 3, 23). I have suggested that this only occurs at the beginning of a distinguishable section of the chapter. Is v. 21 a section in its own right, therefore? There are reasons for claiming a certain independence for v. 21 within the framework of the chapter, and also for thinking that, quite apart from the use of the verb *'ākal*, it constitutes a bridge between the two major sections of the chapter.

The verse has both a backward and a forward reference. On the one hand there appears stylistically to be something final about it. It

has a two-fold occurrence of the verb *'ākal*; *lō' tō'kᵉlû kol-nᵉbēlāh laggēr ᵃšer-biš'ārêkā tittᵉnennāh waᵃkālāh*. This seems to announce the end of a treatment of a theme. The verb-object order of the first occurrence of the verb recalls v. 3. And the effect is heightened when the statement about Israel's holiness is repeated, recalling v. 2.

But it is also forward-looking, by reason of the introduction of the theme of giving to the sojourner. This is an exclusively deuteronomic variation on the theme of clean and unclean food. Neither Lev. 11.39f. nor Ex. 22.31, which are the specific parallels of the command not to eat anything that dies of itself, has any reference to giving to the sojourner or selling to the foreigner. In v. 21, therefore, there is a remarkable adumbration of vv. 28f., in that in both places generosity is enjoined towards the sojourner. The relationship is remarkable because of the apparently very different functions of vv. 3-20 and 22-29. Part of the function of the introduction of the sojourner in v. 21 is for contrast with Israel: what Israel may not eat, the sojourner may. There is thus a continuation here of the idea of contrast in vv. 3-20. In vv. 28f., however, the distinction between Israelite and sojourner is no longer clear. The stranger benefits along with the Israelite poor. Yet despite that difference in function between the two sections this persistent concern of Deuteronomy is common to both. Most importantly v. 21 brings Deuteronomy's 'humanitarian concern' directly under the umbrella of the statement about Israel's holiness. And so finally the link between the supreme expression of that concern (vv. 28f.) and the heading to the chapter as a whole (vv. 1f.) is established.

Our examination of the immediate context of Deuteronomy's tithe-law (14.22-29) leads us to conclude that, along with the food-laws (vv. 3-21), it represents a logical development from the statement in 14.1f. of Israel's chosenness and holiness to Yahweh. Through the motif of eating, which it shares with the food laws, it brings out the deuteronomic teaching that Israel's enjoyment of the blessing of the land is a consequence of their holiness. Once again, therefore, we find a theological reason why the law has been produced in the form we find in Deuteronomy, and this tends to make a *Sitz im Leben* difficult to determine.

b. *The Wider Context*

When we have said that the tithe shows the relationship between Israel's chosenness and blessing in Deuteronomy, we have not yet

shown the full extent to which the law illustrates the theology of the book. We have yet to examine the way in which this law relates to the ethical dimension in Deuteronomy. We have seen in our discussion of the altar-law how all the laws with which we are concerned in the present study (which are all variations of the altar-law) require obedience from Israel in response to Yahweh's bringing them to the land. The command to take the tithe to 'the place which the Lord will choose' (14.23, 25) is no exception. That Deuteronomy's tithe illustrates in a particular way the call to obedient response to Yahweh, may be illustrated by reference to Dt. 26.1-15, which includes (vv. 12-15) the confession about the disposal of the third-year tithe. (Verses 1-11 actually legislates for the firstfruits; but our point depends upon taking vv. 1-15 together.) We saw above (ch. 1) that the use of the verb *nātan* in Deuteronomy illustrated the command to obedient response on Israel's part. Dt. 26 contains the most concentrated illustration of that fact. The verb appears in this chapter in greater concentration than anywhere else in the book, and the deliberateness of its use to bring out the reciprocity between the gracious giving of Yahweh and the giving required of Israel is evident. In vv. 1-3 alone there are three allusions to the fact that Yahweh has given the land. The benefit thus bestowed is further thrown into relief by the contrasting statement in v. 6 that the Egyptians laid (*wayyitt^{e}nû*) hard bondage upon Israel. In vv. 9-11 Yahweh is again three times the subject of *nātan*. Then in vv. 12-14, i.e., the third-year tithe confession, it is the turn of the worshipper to be the subject of *nātan*, once again three times. The pattern of the verb's occurrences in the chapter indicates clearly an intention to use it to show that the giving demanded is a giving in return.[51]

Deuteronomy's Moral Order and the Tithe-Law

The extent to which the tithe-law embodies the central tenets of the theology of Deuteronomy is not fully illustrated, however, by what we have noticed about the structure of ch. 14 and the use of *nātan* in ch. 26. Indeed it is in the tithe-law, we believe, that that moral order which we recognized early in our study[52] is most forcefully and succinctly expressed. There was, it will be recalled, an equation of *righteousness* (*ṣ^{e}dāqāh*) and *good* (*ṭôb*) such that the doing of the one was tantamount to the enjoyment of the other. This principle was contained, furthermore, in the laws of Deuteronomy in general, which exhibited as a uniting feature a requirement that the people of

Israel should, in one way or another, follow courses of action which appeared to be against their own interest, yet with the surprising and irrational corollary that they themselves would ultimately benefit. The obverse of self-denial in the laws was benefit to other people. The cultic laws exemplify this as much as the non-cultic.

The tithe-law of 14.22-29 also illustrates this principle, except that the offerer himself and his family participate in the feast. We have already seen that the eating-motif in Deuteronomy's cultic laws has the purpose of illustrating, within the cultic sphere, the fact that Yahweh has brought Israel into a land of plenty. The tithe-law is the most outstanding example of the eating theme. It is the tithe-law of Deuteronomy (along with that of the firstlings) which has been thought to conflict most with corresponding laws in P, because of this theme. Here, therefore, we see that theme of eating at its most potent in shaping the presentation of a law. In fact we can go further and say that the tithe-law is the supreme embodiment of Deuteronomy's theology of the gift of the land to Israel, with its demand for self-denying obedience and promise of continued blessing.

First, the giving of the tithe is a recognition of Yahweh's ownership of the land, and a response to the fact that it has been given to Israel (cf. above on 26.12-15). The tithe in particular has a pars pro toto relationship to all that the giver possesses, thus indicating that all that is his really belongs to Yahweh and has been given by him. So far this might be suggested equally well by other tithe-laws than that of Deuteronomy. But the chief peculiarity of Deuteronomy's law—the consumption of the material by the offerer—is closely matched by the book's theology of the land, inseparable as it is from the promise of the people's enjoyment of its riches. The tithe-law of Deuteronomy, in requiring the offerers to consume the tithe-material, effectively pictures the obedient people of God enjoying the plenty which he has promised them in return for their obedience. It illustrates, even encapsulates, that principle according to which righteousness and benefits are aspects of the same reality; the enjoyment of the benefits of the land depends upon readiness to relinquish them. The tithe-law, on the one hand, demands obedience and self-sacrifice. The people are required to tithe, and in properly discharging their duty, to go and worship at the 'place which the Lord will choose'. The bringing of the tithe is also genuinely costly. This is clearest in the case of the third-year tithe, which was to be set aside in its entirety, apparently, for the poor (14.28f.). But it applies

in some measure to the normal tithe. The Levite, for example, is to benefit from it (v. 27). (On other occasions of feasting the people's contributions were also seen as giving. For the feast of unleavened bread we read: 'Every man shall give as he is able', 16:17.) On the other hand, the whole emphasis of the deuteronomic law is on the fact that the offerers enjoy the produce which constitutes the tithe. They are to consume 'whatever your appetite craves' and rejoice. As in the case of the law of profane slaughter, an analogy with Dt. 7.13ff. is appropriate. We saw that that law corresponded to 7.13ff. in that it was a kind of realization of the blessing promised in the earlier passage. In the tithe-law too we have a specific reminder of Dt. 7.13. Two aspects of the blessing promised there are taken up in 14.23, viz. 'your grain, your wine and your oil' and 'the increase of your cattle and the young of your flock'. In 14.23 the offerer is commanded to eat 'the tithe of your grain, of your wine and of your oil, and the firstlings of your herd and flock'. The presence of the firstlings in this verse has sometimes been thought inappropriate and even intrusive. But the analogy proposed suggests a ready explanation for it. There is a conscious reference to the promise of 7.13, in such a way as to show that in bringing the tithe the offerers are actually enjoying the benefits which Yahweh had set before them.

The tithe as Deuteronomy presents it, therefore, contains both a call to obedience and the blessing that obedience brings. Blessing, indeed, is contained in the very act of obedience. Here is, in essence, the moral order which we outlined above. The law teaches in brief one of Deuteronomy's insistent themes, that enjoyment of the land depends upon Israel's devotion to Yahweh and readiness to give in obedience and self-denial.

The Didactic Function of the Tithe-Law

The question may justly be asked, of course, Why let the terms in which a law is couched be influenced by any theological purpose at all? Here too the tithe-laws provide an answer in terms of a general deuteronomic tendency. Everywhere in Deuteronomy we find the command to 'remember'—'remember that you were a servant in the land of Egypt' (5.15); '. . . remember what the Lord your God did to Pharaoh and to all Egypt' (7.18); 'remember . . . how you provoked the Lord your God to wrath in the wilderness' (9.7); 'remember the day when you came out of the land of Egypt' (16.3); 'remember what the Lord your God did to Miriam on the way as you came forth out

of Egypt' (24.9); and embracing all of these, the following exhortations: 'And you shall remember all the way which the Lord your God has led you these forty years in the wilderness, that he might humble you, testing you to know what was in your heart, whether you would keep his commandments or not' (8.2); 'You shall remember the Lord your God, for it is he who gives you power to get wealth; that he may confirm his covenant which he swore to your fathers, as at this day' (8.18); '. . . take heed lest you forget the Lord, who brought you out of the land of Egypt' (6.12; cf. 8.11).

The book of Deuteronomy stands between the past (Egypt and the desert) and the future (life in the land), not in the sense of containing a superficial fiction of Mosaic authorship, but in its very language and theology. W. Brueggemann, whose chapter on Deuteronomy in his book 'The Land' is entitled 'Reflections at the Boundary', is suggestive here. For Deuteronomy, he believes, land can be

> . . . the enemy of memory, the destroyer of historical precariousness. The central temptation of the land for Israel is that Israel will cease to remember and settle for how it is and imagine not only that it was always so, but that it will always be so. Guaranteed security dulls the memory . . . One can hardly re-experience one's pre-satiation days.[53]

In general terms, therefore, the exhortations of Deuteronomy aim to make Israel remember what Yahweh has done for it, his requirements of it and its tendency to fail to meet those requirements (as in 9.7). This thrust is present as much in the laws as elsewhere. One purpose of the law of slave-release (15.12ff.), for example, is that the Israelite shall remember that he too was a slave, and only redeemed from his slavery by Yahweh (v. 15). The law of the feast of Weeks (16.12) and certain laws concerning kindness to the sojourner (24.18, 22) also make explicit this aim in Deuteronomy's legislation. But the laws of the tithe probably best exemplify the didactic function of Deuteronomy's legislation.

This is clearest in the confession which is required following discharge of the third-year tithe (26.12ff.). In v. 13 we read: 'I have not transgressed any of thy commandments, neither have I forgotten them'. The declaration ensures not only that the material will be properly disposed of, but also that it has been done out of obedience to God, and that future blessing depends upon this obedience (vv. 14b, 15). But the didactic function is also present in the law for

the more regular tithe, whose purpose is said to be 'that you may learn to fear the Lord your God always' (14.23b). The closest parallel to this in Deuteronomy is in the law of the king (17.14ff.). The king is to read a copy of 'this law . . . all the days of his life, that he may learn to fear the Lord his God, by keeping all the words of this law and these statutes and doing them' (v. 19). The difference between the didactic purpose expressed in 14.23b and that in 17.19 is that while the latter is to be achieved through reading the law, the former is to be achieved through a cultic act. This confirms our view that Deuteronomy's tithe was a visible and concrete embodiment of some of the book's dominant teachings, viz., that the good and plentiful land, given by God, would continue to bring forth richly for the people, as long as they were faithful to the commandment of Yahweh. Its variations from the versions of the tithe-law in other codes are to be explained by this didactic function.

Conclusions to Chapter 4

In the first part of the chapter we found reason to challenge the view that Deuteronomy's laws of tithe reflect different historical circumstances from those of P. There is, on the contrary, a large measure of continuity between Deuteronomy and P here. In all the laws the tithe is a levy associated with a sanctuary. The author of Deuteronomy's law probably knew that of Numbers; but it is not necessary to think that he made a radical break with the existing law. In legislating for a festal meal, it is likely that he assumed that not all the tithe would be consumed, but that a due proportion would fall to the sanctuary. The provision for the Levite in Deuteronomy amounts to a compulsory requirement. The book of Nehemiah, furthermore, which presents only one kind of tithe, draws on both Deuteronomy and P. In legislating for the festal meal, Deuteronomy may well have made an innovation with respect to the law of Numbers. But its laws of tithe are not easily exploited for a historical reconstruction, and so our general contention that the altar-laws should not be dated to the seventh century reforms finds confirmation here.

In the second part of the chapter we tried to find an alternative explanation for the peculiarities of Deuteronomy's tithe-law to one which appealed to historical evolution. We did this, as on previous occasions, by means of a contextual study. The tithe-law of 14.22-29 was related to its immediate context in ch. 14 in such a way as to

show that the blessing of Israel in the riches of the land was a consequence of the fact that Israel was God's chosen people, holy to him. The full theological meaning of the law, however, was only brought out by relating it to the wider contextual study made at an early stage of our enquiry. The tithe-law, in requiring obedience, and in picturing the obedient offerer enjoying the fruits of the land in the very act of obedience, embodied the moral order set forth in the chosenness of Israel. The need for Israel's response and blessing as the reward of obedience are emphatically united here in a single cultic institution.

Apart from the general observation that the laws relating to the altar should probably be dated earlier than Josiah, there was little to suggest a *Sitz im Leben* for the law of tithe. The difficulty in doing so is in direct proportion to the author's motivation to teach truths which were fundamental to the situation of Israel in the land. The tithe-laws, with their interest in remembering (26.13) and learning (14.23), are explicit about their didactic purpose. The tithe-law in particular, like the altar-law in general, is consistent with Deuteronomy's self-presentation as exhortation at the border of the land.

Chapter 5

THE LAW OF FIRSTLINGS

The law of firstlings raises similar questions to that of tithe. There are several parallel laws within the Pentateuch,[1] not all of which are easily reconcilable with that of Deuteronomy. As in the case of the tithe the sharpest conflict occurs with Num. 18 (vv. 15-18), according to which the flesh of the firstlings falls to the priests, while in Deuteronomy it is, like the tithe, eaten by the offerers.

The rabbis attempted no similar solution of the problem to that which they offered for the tithe—the idea of 'second firstlings' being presumably somewhat far-fetched. Scholars of the last century, therefore, having no such tradition to draw on, opted for a more directly harmonistic approach, arguing, for example that while the flesh of the firstlings did go to the priests (Num.), there was no reason why they might not have shared it with the offerers (Dt.).[2]

Such harmonization was always hampered by a failure to recognize that Deuteronomy was simply using its terminology in an individual way. Before we proceed to examine that individuality in connection with the firstlings, certain things can be said which suggest that the laws of Numbers and Deuteronomy may not be entirely incompatible after all. First, as with the tithe, it is unlikely that the law of Deuteronomy expected the offerers to consume all the meat from the firstlings offering. It is doubtful whether a family could have consumed the quantity involved in a week. This means that a part, perhaps even a large part, of the firstlings would have been left over as a perquisite for the priests, and that the deuteronomic legislator tacitly assumed this to be self-evident to his audience. This is also implied by Deuteronomy's command to bring the firstlings to 'the place which the Lord will choose' (12.6; 15.20), meaning in effect that they are to be slaughtered on the altar. To this extent the firstlings are like the

z^{e}bāḥîm (which are explicitly said to come to the altar, 12.27). This is also why an exception is made for blemished firstlings (cf. Lev. 22.19f., where it is laid down as a general principle that only perfect animals shall come to the altar). Since, then, the firstlings are an altar-sacrifice, and recognized as such in Deuteronomy, it follows almost of necessity that some of the meat is assumed to fall to the priests who officiate. The fact that this is not made explicit is characteristic of Deuteronomy's tendency not to depict overtly the role of the priest in sacrifices. (Priests are not mentioned as such in Dt. 12.)[3] The practice which the law envisages may not in reality have been very different from that conceived by Num. 18. That both laws refer basically to the same practice gains confirmation once again from the book of Nehemiah, which appears to know the terminology of Deuteronomy's law as well as that of P. In referring to the firstlings, the term *šānāh b^{e}šānāh* appears once again, as in the case of the tithe (10.36) [35]), showing familiarity with Deuteronomy (15.20). But there is a further expression which occurs specifically in the context of firstlings and which seems to reflect Deuteronomy. In Neh. 10.37 (36) we find the phrase: '. . . and the firstlings of our sons and our beasts, as is written in the law, *and the firstlings of our herds and flocks*', to describe the bringing of firstborn and firstlings. The sense of the sentence would not have suffered had it ended at 'law', since 'herds and flocks' adds nothing substantive to 'beasts'. It seems likely, therefore, that the additional expression is appended specifically to represent the deuteronomic phrasing of the law, since it is only in Deuteronomy (12.6, 17; 15.19) that the terms 'herd' (*bāqār*) and flock (*ṣō'n*) are used in the context of laws on firstlings. The phrase 'our sons and our beasts' corresponds more directly to 'man and beast', found in both Ex. 13.2 and Num. 18.15. Once again, the author of Nehemiah 10, anxious to obey the whole law, incorporated the terminology of the various laws into his own vocabulary. And there is no sign that he knew any practical difficulty in following them all. It may be said that Nehemiah stands at some remove from the formulation of the laws in question, and that he knows no more of their actual *Sitz im Leben* or intent than the later rabbis. The pragmatism in Nehemiah may indeed be of the same order as theirs. But Nehemiah remains nonetheless the earliest witness to an understanding of the deuteronomic law alongside that of P, and may not be lightly dismissed. It is likely that the practice of that time, like the vocabulary, did justice to all the laws.

As in the case of the tithe, however, the caveat has to be entered that, while the deuteronomic law appears to assume the levy aspect which predominates in Num. 18, the Numbers law does not seem to presuppose Deuteronomy's idea of a feast for all the offerer's household. This may mean once again that Deuteronomy intended an actual innovation in the practice of the firstlings offerings. This would not be at all surprising in the light of our studies so far. The permission to slaughter freely (12.15ff.) was an innovation. So too was the permission to commute the materials of the tithe into money and, at the sanctuary, back into goods; so was the third-year tithe. In the firstlings law, the regulation regarding blemished firstlings (vv. 21-23) appears to be parallel to that of profane slaughter. (There is the difference, however, that Deuteronomy is here merely making explicit what other legislation suggests in any case [Lev. 22.17ff.].)

However, the purpose of the various laws should again be taken into account, and this applies as much to that of Numbers as to that of Deuteronomy. Num. 18.17f. is not a 'law of firstlings-sacrifices' like the laws which exist for the sin-offering, peace-offering and others (e.g. Lev. 6.17 (24) – 7.18). No such law exists for the firstlings. We have seen in our discussion of the tithe that the primary interest of Num. 18, in the light of the rebellion of Num. 16, is the status of the priestly tribe, and the offerings are listed with the intention of insisting on that tribe's rightful due. The chapter does not intend to give a full account of the method of sacrificing, and we should not attempt to reconstruct the firstlings-sacrifice on its basis. This means that, here as with all the offerings so far discussed, comparison and contrast of the laws may not yield reliable results about the historical relation between the codes. Once again, the interpreter's first task in seeking to understand Deuteronomy's law of firstlings should be to relate it to its wider context in the book.

The Firstlings Law in its Context in Deuteronomy

We have noticed that the firstlings laws of Numbers and Deuteronomy have been taken to be incompatible. This has often been due, however, to a failure to take sufficient account of their specific purposes. Driver's criticisms of previous harmonizing treatments, like that of Keil, failed to do just this. So, of course, did Keil, and for that reason Driver's criticisms were justified. Both made the mistake of thinking that the laws of Deuteronomy and those of Numbers were essentially the same kind of phenomena. In dealing with Deuteronomy's

firstlings they referred first of all to other firstlings-laws, rather than to Deuteronomy itself.

Already the literary- and form-critics, however, began to interpret the law more and more in terms of its place in Deuteronomy. Steuernagel saw that Deuteronomy was less interested in comprehensive statements of the firstlings-law than in adapting it to a new purpose (i.e. centralization of the cult).[4] Horst too believed it to be an old law re-worked from the standpoint of centralization and the permission of free slaughter.[5] Von Rad, in his commentary, deals with the firstlings-law purely in terms of its context in Deuteronomy, seeing it as an old law with homiletical accretions typical of the book.[6]

While we applaud the tendency to relate the deuteronomic law to its context, the general considerations which made it unlikely that the altar-law in all its variations was to be dated to Josiah's time apply also here. For this reason we cannot agree with the specific interpretations of Horst and Steuernagel.

Weinfield has pressed the firstlings-law into service to further his wider aim of showing Deuteronomy's secularizing tendency, over against the legislation of P. He takes his cue from the command in 15.19 that the firstlings were to be consecrated to the Lord (*taqdîš*), which he believes contradicts Lev. 27.26, where it is said that a firstling may not be consecrated (*lō'-yaqdîš*).[7] He goes on to say that whereas P considers sanctity to inhere in the firstborn, Deuteronomy only recognizes 'sanctity which derives from the express will of the consecrant'.[8] And he concludes by giving a theological reason for the form of the deuteronomic law of firstlings.

> The book of Deuteronomy, however, omits the laws of the human firstborn and the firstlings of unclean animals, because these regulations in no way advance its humanitarian purposes (the participation of the personae miserabiles in the consumption of the firstlings), and because they are based on mythical and magical associations which the author of Deuteronomy does not share.[9]

Here as elsewhere it may be judged that Weinfeld's wider view of the nature of Deuteronomy has too much influenced his exegesis. But the attempt to relate the form of the law to theological purpose is important.

For a similar reason mention may be made of R.P. Merendino's treatment of the law. His work primarily aims to discern successive redactional layers in the legal corpus of Deuteronomy. The 'original'

firstlings law was probably something like: 'all firstlings males you shall consecrate to the Lord'.[10] The regulations regarding 'shearing' and 'labouring' reflect deuteronomic interests. The process of composition as he envisages it, therefore, began with a regulation about these, and the 'old law' was subsequently attracted to it. Verse 19b, indeed, may be older than v. 19a.[11] The blemish regulation belonged originally to the prohibition of work and shearing, rather than to the more general law.[12]

Merendino goes a little further than considerations such as these, however. Having performed the internal analysis of 15.19-23 he attempts to set the pericope in its wider context, and to discern a literary structure in that context which has theological significance. Upon their completion, he believes, the sections 15.19-23 and 14.23-27a (on the tithe) were placed in their present positions by inserting them into an already existing body of material which consisted of 14.22; 15.1-18; 16.1-17.[13] The positions of the new material were chosen carefully for literary effect. The redactor responsible anticipated the law of 15.19-23 in 14.23a 'in order to achieve a certain unity of content and literary form in the whole text'.[14] But the implications are not only literary, but theological. For the result is that the regulations of Merendino's 'Vorlage' (14.22, 28; 15.1-18) are now framed by two cultic laws. Not only is a chiastic structure produced, but also the regulations of the 'Vorlage' (mainly the laws of slave-release) are related more directly to Yahweh and drawn more emphatically into the cycle of cultic events.[15] While Merendino's 'chiastic structure' is less subtle than some that have been found in Deuteronomy,[16] he has nonetheless affirmed a relation between the form and arrangement of the laws and the theological import of the wider context, so that the former actually contributes to the latter. In doing so he has come close to asserting the sort of relationship we found between theology and the tithe-law.

Our study of Deuteronomy's firstlings-law so far has shown once again that the relation between it and other laws should not be stated in terms of a kind of conflict which can only be resolved by postulating historical development between them. We have seen too how scholars have begun to approach Deuteronomy's law in terms of its purpose in the book. We now come to examine it more closely in its immediate context.

The Firstlings Law in Deuteronomy 15

As we saw, Merendino asserted a relationship between theology and the placing of the firstlings-law in its context. He did little more than affirm such a relationship, however, and was unable to say why, as he believed, the tithe- and firstlings-laws should have framed this particular section, viz. the laws of debt- and slave-release.[17] However, there are indications of a subtle and complex relation between 15.1-18 and vv. 19-23. This relation consists most strikingly in the fact that the contrast in vv. 1-18 between the people of Israel and foreigners corresponds to the contrast in vv. 19-23 between firstlings that are fit for sacrifice and those that are not.

The first of these contrasts hardly requires elaboration. We have seen that the opposition of Israel and the nations is important in Deuteronomy's theology. Israel is God's chosen people, holy to him. In ch. 15 the holiness of Israel is related to the idea of the brotherhood that exists between individuals within the people (vv. 3, 7 (2x), 9, 11).[18] Certainly the common view that Deuteronomy is humanitarian in character[19] stands in need of some qualification at this point. Humanitarianism in Deuteronomy is not indiscriminate. A definite distinction is made between the attitude that is to be shown to Israelites and to non-Israelites. And this distinction is thrown into sharp relief by the emphatic contrast made in 15.2f. between the *'āḥ* or *rēa'* on the one hand and the *nokrî* on the other. 'He shall not exact it (the debt) of his neighbour, his brother—of a foreigner you may exact it' (v. 3).[20] The distinction thus made qualifies all the commands regarding debt- and slave-release in vv. 1-18. They are grounded, not in the rather weak concept of humanitarianism, but in the covenant status of the people of God and the obligations which bind individuals within it.

In the light of this contrast in vv. 1-18, we cannot but feel that the contrast between healthy and blemished firstlings in vv. 19-23 is also significant. This is the only law on firstlings which makes separate provision for imperfect animals.[21] If we cast around for some deuteronomic feature which might explain this, we notice first of all the parallel between 15.20ff. and 12.15ff., viz. in the freeing of animals from sacrifice at the altar. The analogy is not exact, since the reason for freeing is different in each case. In 12.15ff., it is distance from the sanctuary; in 15.20ff. it is imperfection. This is an important difference, since the former of these reasons is contingent, an act of leniency in new circumstances (cf. 14.24-27), while the

other is presumably absolute (cf. Lev. 22.17ff.).

However, they have in common Deuteronomy's demand that sacrifice should be at the altar, and the consequent need to articulate the limitations of that demand.

Here then is a general explanation in deuteronomic terms for the inclusion of the regulation about blemished firstlings at this point. But there is a more specific one. There is reason to think that the correspondence which exists between the Israel–foreigners contrast in vv. 1-18 and the firstlings–blemished firstlings contrast in vv. 19-23 is not simply a felicitous accident, but has been set up deliberately and has literary and theological significance.

First, analogies between human-beings and animals are known in the OT. M. Douglas, in her anthropologist's approach to the meaning of 'clean' and 'unclean' in Leviticus, argued that the animal world was structured in a similar fashion to the human world. The different animal categories parallel human categories to such an extent that people living in ancient cultures would have been keenly aware of analogies made between the one and the other.[22] G.J. Wenham, applying the insight, shows how men and animals are often associated in OT texts.[23] Within the cultic sphere there are numerous similarities. Firstborn among men, like firstborn of animals, are dedicated to God (Ex. 13.2; 22.29f.; 34.19). As the firstborn of non-sacrificial animals are redeemed by sacrificial animals (Ex. 13.13), so firstborn Israelites are redeemed by Levites (Num. 8.16-18). Only unblemished animals are considered fit for sacrifice (Lev. 1.1-4; 22.22ff.); so too only unblemished men may act as priests (Lev. 21.17-21).[24]

According to this reconstruction analogies between the human and animal worlds were very precise,[25] and not as straightforward as what we have in Dt. 15. Strictly speaking, we should expect unblemished animals which were fit for sacrifice to be parallel with priests rather than Israelites in general. But the system is not so rigid as to be incapable of variation. Thus on at least one occasion Deuteronomy legislates for the whole people in such a way as to make it correspond, according to Wenham's construction, to animals fit for sacrifice (Dt. 23.2 [EVV 1]; cf. Lev. 22.24). But it is a feature of Deuteronomy to extend to the people as a whole principles applied elsewhere only to the priests (cf. 14.1 with Lev. 21.5; and Dt. 14.21 with Lev. 22.8). And we have seen already that Deuteronomy does not in general make distinctions as sharply as other parts of the OT literature.[26] So it is not improbable that Deuteronomy should

establish the sort of correspondence which we have intimated in ch. 15. The Israelite stands in the same relation to the healthy firstling as the foreigner does to the blemished one. In the case of the Israelite and the healthy firstling, a law is strictly imposed; and for the foreigner and blemished firstling, the relevant law in each case is expressly relaxed. In this way the relationship between the two parts of ch. 15 brings out the holiness of Israel to God.

The correspondence can be pressed in greater detail by a look at some of the vocabulary of the chapter. Words expressing bondage and its opposite, freedom, are frequent in the chapter,[27] not surprisingly, perhaps, since bondage and freedom may be said to be the central theme (at least of vv. 1-18). Nearly all their occurrences (13 out of 14, see note 27) are in vv. 1-18. But the exception is interesting. Verse 19 contains the verb *'ābad*, and its use there—only in this version of the firstlings law—is such as to suggest that it constitutes a bridge between the two parts of the chapter. The phrase in which it occurs is *lō' ta'ᵃbōd bibᵉkōr šôrekā*. RSV translates: '. . . you shall do no work with the firstling of your herd', and in doing so represents a fairly undisturbed tradition of translation.[28] However, the analogy of the use of *'ābad* in Lev. 25.39 puts this interpretation in some doubt. In that passage the phrase *lō'-ta'ᵃbōd* means 'you shall not make him serve'. (Cf. also v. 46 for a similar use.) On this model the passage in Deuteronomy would mean 'you shall not make the firstlings of your herd work'. In other words, the work in question is not so much that of the owner of the beast as of the beast itself. That the beast can be subject to a prohibition of work in its own right is clear from the decalogue, where cattle are placed alongside household and sojourners as those who must observe the sabbath rest (Ex. 20.10; Dt. 5.14).[29] (At least one modern translation seems to want to capture this thought in Dt. 15.19.[30]) Two further factors make it likely that the analogy between Dt. 15.19 and Lev. 25.39 is an appropriate one. First, the form *'ābad bᵉ* appears only rarely in the Pentateuch.[31] The great majority of occurrences of *'ābad* meaning 'work' are either intransitive or have a direct object.[32] Secondly, and most strikingly, the context of the phrase *'ābad bᵉ* in Lev. 25.39 is the Levitical version of the law of slave-release (vv. 39-55), one of the laws in Dt. 15. It seems, therefore, that the verb *'ābad* is deliberately used in relation to firstlings to relate them to the Israelites. As the latter ought to be free, as a consequence of their status as the people of God, so the firstlings ought to be. The

correspondence between the two parts of the chapter now illustrates the freedom of the holy people. There is another, perhaps less obvious, verbal parallel. It is possible that the phrase *w^e^lō' tāgōz b^e^kôr ṣô'nekā* (v. 19) recalls *lō'-yiggōś 'et-rē'ēhû* (v. 2; cf. *tiggōś*, v. 3). A parallel here is suggested by three factors. The first is phonetic. While *gāzaz* and *nāgaś* look very different from the point of view of a lexicon, they are close in the forms in which they appear here (especially *tāgōz/tiggōś*). The second factor is functional. Again the meanings 'exact' and 'shear' do not look very similar in themselves. But in their respective contexts here they do have similar purposes. Just as the creditor may not claim what he might consider his legitimate right with regard to the debtor, so the owner of the firstlings may not claim what seems to be his right in relation to his beast. This is the more likely to be a unifying factor between the parts of the chapter as we have noticed that such self-denial in the face of apparent rights is a theme that underlies all the laws of Deuteronomy.[33] The final factor in the cementing of the parallel suggested here is that this is the only version of the firstlings law which expressly prohibits the shearing of the animal. We have already noticed several other expressions which are unique to the deuteronomic version of the law, viz. *taqdîš*, v. 19; *lō' ta^a^bōd*, v. 19; and the concession about blemished firstlings, vv. 20-23). In each of these cases, as we have seen, the introduction of the new expression has been done in such a way as to lend a unity to the parts of the chapter.[34] It is likely, therefore, that this regulation about shearing has been done in a similar way. In this case the deuteronomic call to self-denial is illustrated. Very significantly v. 19b, usually regarded as the oldest part of the law,[35] is precisely that which contains some of the most creative vocabulary. Any apparent distinction between pre-deuteronomic law and deuteronomic expansion is here quite illusory.

As in the case of the tithe-law, the idea of self-denial is accompanied in the firstlings law by an indication that the good things of the land are for the benefit of the people. This indication consists in the fact that the offerer consumes the firstlings (whether perfect or blemished). But the theme of plenty also spans both parts of ch. 15. In vv. 1-18 it is associated with the freedom and holiness of the Israelite. The Lord's desire is that 'there will be no poor among you' (v. 4). Generosity is enjoined between brother-Israelites because every member of the holy people has a right to enjoy the fruits of the land. Therefore, when a slave is released, he is not to go empty-handed.

Rather 'you shall furnish him liberally out of your flock, out of your threshing-floor and out of your wine-press' (vv. 13f.). The twin ground of the command is the reminder that all Israel was released from the bondage of Egypt and that subsequently the Lord blessed the nation. The freedom which is the right of every Israelite has as its essence the right to enjoy the fruits of the land. On this point, as on others, the deuteronomic law of slave-release is unique.

The other laws of slave-release (Ex. 21.2-11; Lev. 25.38-46) do not require explicitly that the slave-owner supply the released slave liberally when he releases him. If, as is almost certain, the compiler of the deuteronomic law was familiar with that of Ex. 21.2-11,[36] Deuteronomy's inclusion of the material about liberal treatment of the slave is the more striking. Once again, therefore, we find that the juxtaposition of the law of firstlings with that of slave-release brings out a theological theme of Deuteronomy.

Our discussion of the significance of the form of the deuteronomic law of firstlings and its placing alongside the laws of release from slavery and debt has shown that the law throws into relief several theological themes of Deuteronomy. The contrast that exists between Israelites and foreigners in vv. 1-18 is parallel to the contrast between perfect and blemished animals in vv. 19-23. The parallel has the effect of illustrating the holiness of Israel to Yahweh. In this place that holiness is closely associated with the brotherhood of Israelites and their right to be free. Finally the correspondence between the two parts of the chapter illustrates once again the relationship between self-denial and enjoyment of the blessings of the land. The theological meaning of the law of firstlings is thus surprisingly rich.

Conclusions to Chapter 5

Our study of the deuteronomic law of firstlings yields very similar conclusions to that of the law of tithe. The differences between Deuteronomy's law and others were not to be explained in terms of historical development. Dt. 15.19-23 should not be seen as a comprehensive representation of the firstlings-offering at any time, and in all probability it was tacitly assumed that parts of what was sacrificed would fall to the priests. As in the case of the tithe, the book of Nehemiah drew on both Deuteronomy and P, and clearly had no difficulty in reconciling the two. While Deuteronomy may actually have innovated over against the laws of Numbers (assuming that the priority of Num. 18 over Deuteronomy which we maintained in the

previous chapter applies in this case also), the differences should once again be explained mainly in terms of author's purpose. The language of Dt. 15.19-23, and the juxtaposition of the law with 15.1-18, brought out some of the theological themes which we listed above. The expression of the deuteronomic law is, therefore, subject to a theological purpose. (This, incidentally, was also true of the Numbers law.) Here again, that purpose makes a *Sitz im Leben* difficult to trace, as the theology in question is fundamental to Israel's dwelling in the land.

The fact that creative language, suited to the wider purposes of the contexts, appeared in the supposedly oldest part of the law suggested that here (as elsewhere, Dt. 12) it was misguided to try to discern a process of growth.

As our study progresses, a picture is being built up of the extent to which the cultic laws in Deuteronomy are governed by a theological purpose. All the laws we have studied have been influenced to a considerable degree, and the material is used freely to draw in ever more theological themes in pursuit of a didactic purpose. The law of firstlings, though a comparatively minor law, is a good example of this freedom in the use of legal material. It becomes increasingly difficult to drive a wedge between original law and subsequent expansion, so fundamentally does the form of each law serve Deuteronomy's wider purposes.

Chapter 6

THE FEASTS

Dt. 16.1-17 contains the final legislation in Deuteronomy which takes cultic offerings specifically for its subject. The Feasts of Passover and Unleavened Bread (Massot), Weeks and Booths were events of outstanding importance in ancient Israel's cultic calendar. This historical importance, together with their emphatic association with 'the place which the Lord will choose' in Deuteronomy (16.2, 6, 7, 11, 15, 16), makes the laws of the feasts relevant to our wider study.

The issues in our study of the feasts will be similar to those which we have encountered so far. Here as in the case of all the other cultic laws we have studied, the interpretation of Deuteronomy is inseparable from the study of the history of Israel's cult. Once again, the distinctive features of Deuteronomy have been contrasted with other laws of feasts and used to help plot historical development.

At first glance the distinctiveness of Deuteronomy is not so marked here as in other cultic laws. While major deuteronomic themes (such as the law of the altar, and the motif of rejoicing in the blessings of the land, vv. 10f., 14f., 17) are present, there is a sense in which they are muted by comparison with other deuteronomic legislation. There is no call to rejoice, for example, in the law of Passover-Massot (vv. 1-8). In this law, furthermore, the theme of eating is not peculiarly deuteronomic, since it belongs essentially both to Passover (cf. Ex. 12.8) and to Massot (cf. Ex. 12.15). Nor indeed is the command to rejoice peculiar to the deuteronomic law on the Feast of Booths (v. 14; cf. Lev. 23.40).

We shall see, however, that Deuteronomy's laws of feasts are nonetheless distinctive in various ways. Our task in this chapter, therefore, will be similar to what it has been in other chapters. We shall ask the question whether the peculiarities of Deuteronomy's

laws really do enable a cultic history to be plotted; or whether they are to be explained, once again, in terms of theological themes which are fundamental to Israel's dwelling in the land of Canaan, and as vehicles designed to bear those themes.

Our method will follow a by now well-established pattern. We shall begin by comparing the laws in Dt. 16 with other laws on feasts, and examining the historical background in general. And in the latter part of the chapter we shall undertake a contextual study of the laws, both to throw more light upon the question of their *Sitz im Leben* and to assess their function within the book.

I. *Historical Background*

Deuteronomy 16 and Other Laws of Feasts

Apart from Dt. 16, Pentateuchal legislation on Israel's feasts is to be found in Ex. 12.1–13.10 (12.1-20, 43-49 are usually assigned to P, while 12.21-27, 13.3-10 are thought to belong to JE); Ex. 23.14-18; 34.18-26 (JE); Lev. 23 (H); Num. 28.16-31 (P).[1] In addition, Num. 9.1-14 (P) contains a report of a Passover celebrated in the wilderness of Sinai, with some further regulations.

Opinions as to the history of the feasts, particularly of Passover and Massot, have varied considerably. In Wellhausen's view, there was no Passover legislation prior to Deuteronomy. He believed it was absent from JE, made its first appearance with Deuteronomy, and was further developed in P. Deuteronomy's Passover pointed back to JE's firstlings-sacrifice. United in Deuteronomy with the Feast of Massot,[2] its centralization was part of that book's tendency to bring uniformity into cultic institutions, a uniformity which became all the greater in P.[3]

Wellhausen's belief that the Passover is nowhere mentioned in JE was never widely accepted, mainly because of its presence in Ex. 12.21-27.[4] But his approach was influential in two ways; first, in its insistence that Deuteronomy stands between JE and P in a development which tends towards ever greater elaborateness.[5] It is pointed out that neither in JE nor in Deuteronomy is the date of the Passover specified, and since this is confined to H and P (e.g. Lev. 23.5 [H]; Ex. 12.3, 6 [P]) it can only have been fixed in post-deuteronomic times.[6] Secondly, the contention that Deuteronomy was the first to unite Passover and Massot has also stood the test of time.[7] This is reflected in the usual critical analysis of Dt. 16.1-8 according to

which parts belonged originally to a regulation pertaining to Passover only (viz. vv. 1-2, 5-7), and the remainder (vv. 3-4, 8) to a Massot law.[8] As evidence for the process of amalgamation which has taken place, Mayes refers to the fact that in v. 1 the Passover has been introduced to what must once have been a Massot context, since it is in connection with the latter that the month of Abib appears in the earlier legislation.[9] He also believes that the two prohibitions of eating unleavened bread in v. 3 belong to the Passover and the Massot regulations respectively.[10] The term *'ālāyw*, v. 3, furthermore, has been said to represent a contradiction which has arisen in the course of the amalgamation of the two sets of regulations, it being pointed out that, since the Passover meal itself is consumed in one night, it is impossible to eat unleavened bread 'with it' for seven days.[11]

We have noticed that in Wellhausen's view the combining of Passover and Massot occurred not for its own sake or in isolation, but as part of a deuteronomic tendency, connected with centralization of the cult, to introduce uniformity into cultic practice. Evidences of such a tendency are found in the fact that Passover sacrifices may, in Deuteronomy, be drawn from the herd as well as the flock (v. 2), in contrast to both JE and P, which allow lambs only for the purpose (Ex. 12.3, 21); and in Deuteronomy's use of the term *bāšal* for the preparation of the sacrifice, apparently designating a process which is explicitly prohibited in Ex. 12.9, where the same verb is used.[12]

While idiosyncrasies in Deuteronomy's laws of feasts may not be so readily apparent as in other laws, therefore, they are present nonetheless. The interpretation of the feasts is like that of the other cultic institutions, bristling with implications for the history of Israel's cult in general, and the relation between the pentateuchal codes.[13] Many of the views we have cited are conditioned, once again, by the belief that the specific impetus underlying the production of Deuteronomy's law is that of Josiah's centralization of the cult. And the points at which Deuteronomy shows individuality are construed as aspects of the movement which accompanied that event. Here as elsewhere, Deuteronomy is usually taken to be prior to P. The questions of the relation of the laws of Dt. 16.1-17 to the other law-codes will, therefore, dominate our discussion of the laws' historical background.

The Combining of Passover and Massot

The first question that is raised is how much evidence there is that Passover and Massot were only united by Deuteronomy. The contention that this was in fact the case rests on twin premises: a. that they have separate origins, Massot in Canaan and Passover in Israel's nomadic past, and b. that the two are not combined in texts before D.

a. *The origins of Passover and Massot.* It used to be thought that both of these feasts had their origins on Canaanite soil, and were only adopted by Israel on their arrival there. More recent scholarship, however, has tended to think that the Passover has its roots in Israel's nomadic period prior to the settlement. De Vaux has drawn attention to numerous features of the celebration which mark it out as a nomadic feast (i.e. the roasting of the victim, the state of readiness for the journey, the accompaniments of bitter herbs and unleavened bread). The blood on the doorposts is interpreted as a ritual intended to drive away evil powers and ensure fecundity for the flock. De Vaux has been widely followed on this point, on which therefore, there is little debate today.[14] The opinion that Massot was originally Canaanite, on the other hand, has continued to be widely held, even where the Canaanite origin of Passover is rejected.[15] This is because commentators have felt it to be essentially an agricultural feast, associated with the beginning of harvest. The reasons given for this are: 1. Massot appears along with the Feasts of Weeks and Booths, both clearly agricultural festivals, in early codes (e.g. Ex. 23.18ff.; cf. Dt. 16.16); and 2. the ceremony of the waving of the sheaf (Lev. 23.9ff.), again evidently agricultural in character, is said to belong with the celebration of Massot in the preceding verses (6ff.). Similarly, the dating of the Feast of Weeks from the time of putting the sickle to the grain (Dt. 16.9) has been considered equivalent to dating it from (Passover-)Massot which is legislated for in the previous verses (1-8).[16]

It is commonly held, therefore, that Passover and Massot have diverse origins. If Israel brought the Passover with them into Canaan, and only adopted Massot after their entry, then, since they were ultimately amalgamated, it is natural to look for a historical point at which the uniting occurred in her history; and much of the exegesis of the texts concerning the relation between Passover and Massot has been governed by these premises.

The Canaanite origin of the Feast of Massot has also been

challenged, however. First, of the three feasts listed in the earliest calendars only Massot is furnished with a motivation drawn from the salvation-history. Indeed, as Segal has noted, Ex. 34.18ff. actually separates the regulation about Massot from that of the other two feasts. Even if the historical motivation is not original, Segal continues,

> ... it invalidates the argument that the Massot festival, because it is mentioned in the same context as the Feasts of Weeks and Tabernacles, must have arisen from a similar cause.[17]

Secondly, Halbe has shown the weakness of the more specific arguments for the agricultural origin of Massot. The association of the 'putting in of the sickle' in Dt. 16.9 with Massot is read into the text; so too is the interpretation of the sheaf-waving in Lev. 23.9ff. as a part of Massot, when in fact it looks more like a prelude to the ensuing regulations about firstfruits.[18] A further point which casts doubt on the view that Massot in Dt. 16 is associated with an agricultural festival is the fact that many scholars now acknowledge that the month of Abib (March/April) is rather too early for harvest in most parts of Palestine.[19] Finally it has been suggested that the eating of unleavened bread is best explained in a nomadic situation. Halbe has described it as 'the bread of all situations which prohibit the baking of dough which has stood for any length of time',[20] and goes on to suggest that the Feast of Unleavened Bread had it origins in one element of the Passover celebration, which subsequently became detached and acquired its own identity. Gen. 19.3, where Lot bakes unleavened bread for two angels, furnishes interesting support for the view that it is essentially food prepared in haste.[21]

Having established that the Feast of Unleavened Bread may have its origins in a nomadic situation the question now arises at what stage it was united with the Passover. The implication of our foregoing remarks is that the amalgamation could have occurred at an early stage, and therefore prior to Deuteronomy. To see whether it is plausible to suppose that Deuteronomy did in fact inherit an already amalgamated feast we now turn to some relevant non-deuteronomic texts.

b. *Non-deuteronomic texts relating to Passover and Massot.*

(i) *JE texts.* Our question here is not whether the Feast of Passover, prior to Deuteronomy, already possessed the element of eating unleavened bread. That in itself is widely allowed. The celebration of

Passover recorded in Josh. 5.10-12 immediately upon Israel's entry into Canaan is accompanied by the eating of 'unleavened cakes and parched grain' (v. 11). The unusualness of the combination *maṣṣôt wᵉqālûy* argues for the originality and antiquity of the information.[22] But the mere accompaniment of unleavened bread does not prove the union of the two feasts in question, as both Noth and Halbe have stressed.[23] This being so, our enquiry as to possible evidence for a combined feast focuses first on two passages from the book of Exodus, viz. 23.15 and 34.25 (JE). The latter passage contains the command: 'You shall not offer the blood of my sacrifice (*dam-zibḥî*) with leaven; neither shall the sacrifice of the feast of the Passover (*zebaḥ ḥag happāsaḥ*) be left until the morning'. 34.2 is thus a close parallel to 23.18, in which, however, the Passover (*happesaḥ*) is not expressly mentioned, the term *ḥaggî* being used by itself. If the term *happesaḥ* is original in 34.25 there would seem to be evidence for the early unity of Passover and Massot because of the prohibition of eating unleavened bread with the former. Indeed the very collocation of *ḥag* and *happesaḥ* in the same verse would suggest an attempt to combine the two, since the Passover itself does not seem to have been one of the original *ḥaggîm* of Israel (cf. Ex. 23.14-17). However the absence of *happesaḥ* in 23.18 has led many commentators to suppose that it is not original in the tradition underlying the texts. Many therefore, though not all, have denied that there is any reference to Passover in 23.18.[24]

There is evidence in favour of such a reference, however. Most importantly, Lev. 7.13 shows that the offering of leavened bread is actually required with certain sacrifices (viz. 'sacrifices of peace-offerings for thanksgiving'; cf. also Lev. 23.17). R.E. Clements has noted the difficulty which this creates for the usual interpretation of Ex. 23.18 as a prohibition of offering leavened bread with any sacrifice, and says of the passage that it is 'difficult to place in its proper context'.[25] Cassuto's attempt to deal with Lev. 7.13 as an exception to the rule hardly meets the difficulty. The most satisfactory resolution of the problem is to suppose that Ex. 23.18 does in fact have limited reference. The most natural such reference is then to the Passover itself because of the appearance of the term *ḥag* in the verse, in parallel with the term *zebaḥ*, and because of the analogy of 34.25.

There is evidence, therefore, that the Passover existed, as a pilgrimage-feast, prior to Deuteronomy. Ex. 23.18 and 34.25 shows

too that it was not to be accompanied by leavened bread. This does not yet answer the question whether the application of the term *ḥag* to the Passover constitutes its amalgamation with the feast of Massot. Michaeli points out that Passover regulations of Ex. 34.25 are kept separate from the law of the Feast of Massot in v. 18 and concludes that the feasts themselves were still separate when 34.18ff. was drawn up.[26] However, when the designation of the Passover as a *ḥag* is taken together with the historical motivation which is given to the Feast of Massot in Ex. 23.18 and 34.25 we have a considerable amount of cumulative evidence for the view that a combined feast is known here.[27] The very juxtaposition of regulations regarding Passover and Massot elsewhere in JE may suggest the same (Ex. 12.21-27; 13.3-10), although it could hardly be proved from these texts alone. The same may be true of Josh. 5.10-12. While in itself it cannot furnish proof of a combined feast, the likelihood that such a combination took place early may suggest that the passage in Joshua is best read in that light.

(ii) *P texts*. So far, we have not challenged the view that the P texts which refer to the feasts are later than Deuteronomy. It is usually assumed that Deuteronomy itself furnishes evidence of its priority over P. In that it does not specify dates for Passover-Massot it is considered that the dates were not yet fixed at the time when the law of Dt. 16.1-8 was promulgated.[28] However, we have seen that Deuteronomy's omission to specify details of cultic observances is not a reliable guide in establishing whether or not those details were actually known when Deuteronomy was written. We have noticed, indeed, a definite tendency for Deuteronomy to express itself in a non-technical way.

We shall be considering the relation between Deuteronomy and P more minutely when we examine the question of centralization in regard to the feasts. For the moment we pause merely to notice certain hints that aspects of the legislation of P (and H), viz. Ex. 12.1-20 (Lev. 23.4-8), may have been known in Deuteronomy, and even in a part of JE.

In Ex. 23.15 (34.18) we read: 'You shall keep the Feast of Unleavened Bread; as I commanded you, you shall eat unleavened bread for seven days at the appointed time in the month of Abib . . .' The important phrases are 'as I commanded you' and 'at the appointed time in the month of Abib'. Together, these suggest that, at the time when the law in its present form was written down, a

command about the celebration of the Feast of Massot, including information about its date, had already been given. Driver supposed that the phrase 'as I commanded you' referred back to Ex. 13.4, 6 where the seven-day feast is enjoined, together with its time, 'in the month of Abib'.[29] However, that passage itself seems to presuppose a particular day in the month of Abib: 'This day (*hayyôm*) you are to go forth in the month of Abib'. (Cf. v. 3: 'And Moses said to the people, "Remember this day in which you came out from Egypt . . . "'.) It may be therefore that the phrase 'as I commanded you' in 23.15 must refer ultimately to Ex. 12.17ff., in which the day of the month is specified.[30] The use of the expression 'at the appointed time' (*l^{e}môʿēd*) in Ex. 23.15 seems to bear this out, suggesting as it does a particular day.

Ex. 12.17ff. belong to P, of course. Perhaps, therefore, because of the implications of a JE passage referring back to a P passage, some commentators have preferred to think of part of Ex. 23.15 as a later addition. Driver thought, for grammatical reasons, that the second half of the verse (from 'for seven days . . . ') may have been introduced from the parallel Ex. 34.18.[31] This does not avoid the problem of the presence of the expressions in question in JE, however, since Ex. 34.18 is also in JE. Noth simply considers the subordinate clauses in 23.15 late additions, because the regulation governing the Massot is longer than those for the other feasts, and because it is historicized.[32] There is no good reason, however, why one regulation should not be longer than others. And Noth's point about the historical motivation merely begs the questions we have set against Massot's origin as an agricultural festival.

There is therefore no convincing reason for removing the phrases 'as I commanded you' and 'at the appointed time in the month of Abib' from Ex. 23.15, or at least from 34.18.[33] The conclusion seems almost inevitable that these passages refer back to details contained in P (Ex. 12.17ff. and/or Lev. 23.4ff. [H]). The exact meaning of the term *môʿēd* in Dt. 16.6 is a matter of dispute, many holding that it refers to the time of day when Israel left Egypt.[34] Certainly, if the author did know the date, he has shown some disregard for it in v. 1. But it follows that if it was known to the authors of JE, it was probably familiar to those of Deuteronomy also. Once again Deuteronomy's lack of concern for cultic detail may be sufficient to explain the absence of the date.[35]

The importance of the suggestion that Deuteronomy may already

be acquainted with the details about date contained in P (H) is that these details presuppose the unification, or at least the juxtaposition in time, of the Feasts of Passover and Massot. From our examination of Deuteronomy's law on the combined feast in relation to both JE and P, therefore, we conclude that there is evidence to suppose that Deuteronomy was not innovating in uniting the feasts, though it may *emphasize* their unity (cf. below). This is the first step in questioning the view that the form of its law, by reason of its omissions, places it historically between JE and P (H). We have now to follow this line of enquiry further by examining the significance of the altar-law in the legislation of Passover-Massot.

Passover-Massot and Centralization

It has commonly been held that Deuteronomy, by virtue of its command to celebrate the Passover 'at the place which the Lord your God will choose' (16.6), attempted to remove it from the people's homes to the central sanctuary. This centralizing aspiration, here as in the case of other cultic institutions, is said to betray the historical provenance of Deuteronomy's law from the reforms of the seventh century. One of the chief advocates of this view is de Vaux. He allows that in the days before the institution of the monarchy the Passover may have been held at the central sanctuary of the tribal federation. The settlement, however, led to a gradual loosening of tribal bonds, which resulted in a decentralization of the Passover to the towns and individual homes. This is argued on the basis of Ex. 12.21-23 (JE) and Dt. 16.5. The former is the institution of the Passover, providing for its first celebration in the homes of the people who were about to escape from the final plague in Egypt just prior to the exodus; the latter expressly forbids celebrating the Passover 'within any of your towns'. The final stage in the historical development, so argues de Vaux, is represented in the P texts, which returned the Passover, now combined with the Feast of Massot, to the homes of Israel.[36]

However, the postulation of such a fluctuation between celebrating the Passover at home and at the central sanctuary (or *a* central sanctuary) is unnecessary and ill-founded. (The NT pictures the Passover once again in Jerusalem, Lk. 2.41. This would require the assumption of yet another reversal after P if the view outlined by de Vaux were correct.) First, the passages cited by de Vaux do not constitute evidence of a de-centralized Passover. On Dt. 16.5, no prohibition can prove that the thing prohibited was hitherto practised.

This law against celebrating Passover in the towns, therefore, does not show that Passover actually was ever celebrated there.[37] In support of this, it should be added that the command not to sacrifice in the towns is a stereotype in Deuteronomy, designed to strengthen the command to sacrifice only at the place of Yahweh's choice. It would be a mistake to read in too much historical significance to any particular occurrence of it. Ex. 12.21-23, on the other hand, is too often pressed into service as evidence of a requirement that Passover be celebrated at home, without due regard for the character of the context as a narrative of the institution of the feast. As Haran points out, the setting of the first Passover, according to both J and P, is in Egypt, before either tabernacle or Temple existed.[38] This is not the same as saying that the narratives of the institution of Passover are historically accurate. It is merely to suggest that the authors of the narratives should be credited with some concern for consistency in the picture which they present. It is unlikely that a sanctuary context could plausibly have been given to an account of events said to have taken place in Egypt.

While there is a lack of evidence, therefore, that the Passover was ever celebrated throughout the country, there are numerous indications that it was celebrated centrally at various periods in OT history, and indeed in the NT. 2 Kg. 23.22 tells us: 'For no such Passover [as Josiah's] had been kept since the days of the judges who judged Israel, or during all the days of the kings of Israel or of the kings of Judah . . . ' We have already noticed that de Vaux regarded that as evidence of a centralized Passover in the days following the settlement. This seems to be the likeliest interpretation.[39] The point is, not simply that the Passover had been celebrated in the period of the judges, but that it was *such* a Passover, i.e. one like Josiah's celebrated centrally with all Israel in attendance.[40]

The Passover celebrated by the returned exiles (Ezr. 6.19ff.) seems also to have taken place at the newly rebuilt temple. This is implied when it is said that the Passover lamb was killed by the priests and Levites 'for all the returned exiles, for their fellow priests, and for themselves' (v. 20). The feast forms the climax of the narrative about the building and dedication of the temple, and appears also to be the culmination of the cultic celebrations which marked its completion. The accounts of Passover celebrations in Chronicles (2 Chr. 30; 35) are also centred in Jerusalem. And we have noticed already that Passover was still held there in NT times (Lk. 2.41).

These data do not favour the view that the Passover's history was characterized by fluctuation between the sanctuary and the family's home. It is not sufficient, however, simply to deny such historical fluctuations, for they have been postulated as a result of the recognition of a real aspect of Passover celebration. There is indeed a sense in which the Passover was a family celebration. Ex. 12.21 commands that lambs be selected 'according to your families', and the rite thus instituted is called 'an ordinance for you and your sons for ever' (v. 24). The mistake, however, is to try to resolve the tension between the family-orientation and the sanctuary. This is clear from the Chronicler's account. Although the setting is Jerusalem (2 Chr. 30.3; 35.1), and there is indeed an emphasis on the temple personnel's control of all the proceedings (e.g. 30.17), yet the idea is preserved that Israel is celebrating here according to the 'fathers' houses'. This two-sided character of the Passover is carried into both the NT and the Mishnah. From the former we learn that while people came to Jerusalem to celebrate the feast, yet the meal was actually eaten in individual homes (Mt. 26.17). Pesaḥim 5.5-7 takes us to the court of the temple, where we find successive groups of individuals slaughtering their offerings, having the priests manipulate the blood, and thereupon retiring in order to celebrate the feast—again presumably in families.

For the earliest OT times this dual aspect of Passover celebration is more difficult to document. But the terms of Deuteronomy itself suggest that its author had just such a synthesis in mind as is evidenced in the later works we have noticed. The relevant passage is 16.7b: '... and in the morning [i.e. after the celebration of the Passover] you shall turn and go to your tents'. It has often been thought that this verse brought a note of disharmony into the total picture presented in 16.1-8.[41] This is because v. 7b seemed to order the people of Israel home after the first night of what is otherwise presented as a seven-day feast (vv. 3, 8). The contention, however, rested on the belief that the phrase 'to your tents' was an archaism, meaning 'to your (permanent) homes'. It is true that the term *'ōhel* (tent) can sometimes be used in this way.[42] But a number of scholars have recognized that the likeliest meaning of Dt. 16.7b is an order to retire after the first night of the combined feast to temporary dwellings—literal tents—in which the celebrants would have stayed for the week.[43]

The great advantages of reading Dt. 16.7 in this way are that it allows the passage to be read as a more coherent whole, and that such

an understanding of what the legislator is attempting to do is consistent with what we know about the subsequent history of the feast.

Conclusions on Passover-Massot

At the present stage of our study we have found reason to challenge some of the major contentions which underlie much thinking about Deuteronomy's legislation on the Feast of Passover-Massot. It is likely that the two components of the combined feast, while in all likelihood originally separate, were combined before Deuteronomy legislated, possibly even before the settlement. Furthermore, Deuteronomy's requirement that the celebration should take place 'at the place which the Lord your God will choose' should not be taken to mean that the legislator attempted to remove it from individual homes throughout the country to the central sanctuary.

Rather, the history of the Passover suggests that the family aspect was always retained in the context of a centralized celebration.[44] We have once again found reason to doubt whether Deuteronomy's legislation is best dated between JE and P, since there are some suggestions that certain details from P are familiar to Deuteronomy (and indeed to JE). This continuity in the history of the Passover, together with the difficulty in maintaining the usual order of the documents, leaves us yet again without evidence for associating Deuteronomy's law specifically with the seventh century reforms. The antiquity of both parts of Passover-Massot, and the possible antiquity of their combination, makes it hard to determine a *terminus a quo* for the law at any point after the settlement.

Having made these claims we have not yet explained all the oddities of Deuteronomy's law. Before we turn to our examination of deuteronomic ideology in this case, however, it will be in place to make some remarks about historical aspects of the remaining feasts (Weeks and Booths).

The Feasts of Weeks and Booths

There is very little in Dt. 16.9-17 which provides solid evidence for the historical relationship between these laws on Weeks and Booths (and the concluding summary on all three feasts, vv. 16f.) and other codes. The deuteronomic altar-law cannot be considered revolutionary in these cases, since the feasts are *ḥaggîm*, pilgrimage-feasts, essentially associated with a sanctuary. The summary of the three pilgrimage-

feasts (vv. 16) agrees in its major features with those in Ex. 23.14ff., 34.18ff. and Lev. 23, in that the feasts are broadly the same.[45] It has been noticed that Deuteronomy's law, alone among the codes, makes no mention of the bringing of firstfruits.[46] Deuteronomy does, however, legislate for the bringing of firstfruits in 26.1-11, and its placing of it thus seems likely to be subject to a particular purpose associated with the overall structure of the laws.[47]

At certain points the laws on the Feasts of Weeks and Booths show some variation from legislation in other codes. Verse 9, for example, is not so precise as Lev. 23.15f. on the date from which the counting of the 50 days leading up to the Feast of Weeks is to begin. The difference, however, is no more than a matter of precision, and we have noticed Deuteronomy's lack of concern for precise detail on other occasions. Similarly, it has been noted that Deuteronomy does not specify exactly how much should be brought by the worshipper by way of offering at the Feast of Weeks. These features have been evaluated in different ways. Bertholet, for example, took it as evidence that exact quantities had not yet been fixed (contrast Lev. 23.17ff.).[48] These conclusions may therefore be drawn for all Deuteronomy's laws of feasts, which consequently correspond to all the other laws we have so far studied.

Weinfeld, on the other hand, sees these omissions, and others, as evidence of Deuteronomy's deliberate suppression of sacral ritual.[49] The mere absence of such details, however, compels neither of these conclusions. Once again, Deuteronomy's lack of concern for detail is sufficient explanation, and it is more satisfactory to suppose that, in the case of the Feasts of Weeks and Booths, the essential aspects of the festivals have been outlined as a framework for the habitual deuteronomic themes of blessing (vv. 10, 15, 17), rejoicing (vv. 11, 15), kindness to the poor (vv. 11, 14), and the contrast of life in the land with Egypt (v. 12).

A final point might be made about the Feast of Booths. It is often said that this feast (otherwise known as Ingathering) was first called Booths in Deuteronomy.[50] This is to make the usual assumption that the law of Deuteronomy preceded that of Lev. 23 (H), where the feast is again called Booths (vv. 33, 39ff.) and where it is described in greater detail and provided with an explanation of the command to dwell in booths (i.e. 'that your generation may know that I made the people of Israel dwell in booths when I brought them out of the land of Egypt . . . ', v. 43).

We referred on an earlier occasion to the fallacy of supposing that the more detailed version of a law must be the later. For reasons such as those which suggested that Lev. 17.10ff. should be thought to precede Dt. 12.15f., 20ff. (on profane slaughter and the eating of blood)[51] it may be that Lev. 23.39ff. actually precedes Dt. 16.13-15. First, if as Wolff and Mays suppose, the feast referred to in Hos. 9.5f., 12.10[52] is actually the feast of Booths, it is clear that dwelling in tents in the context of that feast is ancient practice. It is not unreasonable to suppose that since the practice was known the details of the practice were known too. It may be thought unlikely that legislation for the performance of something that was ancient practice should only appear relatively late in Israel's history. Secondly, while Lev. 23.39ff. has the character of laying down definitive regulations regarding the ritual associated with the feast, Dt. 16.13-15 does not. The latter passage contains such a brief statement of the basic law (omitting even the phrase 'at the end of the year' found in Ex. 23.14) that it is possible to read it as presupposing knowledge of the details of the ritual. This is the more likely when we recognize that one of the chief aims of the law seems to be the reiteration of standard deuteronomic themes—blessing, joy, concern for the poor.

This brief survey of the laws of the Feasts of Weeks and Booths yields similar results to our discussion of the Feast of Passover-Massot. There is no evidence to suggest that they belong to the seventh-century reforms, nor that they constitute a deviation in any substantial way from previous or later practice. These conclusions may therefore be drawn for all Deuteronomy's laws of feasts, which consequently correspond to all the other laws we have so far studied. Ch. 16 no more than chs. 12, 14, 15 furnishes evidence of a radical change in Israel's history of worship.

II. *Special Characteristics of Deuteronomy's Laws of Feasts*

Having found that the peculiarities of Deuteronomy's laws of feasts are not to be explained in terms of radical historical change, it remains to try to explain some of those peculiarities and apparent inner tensions in some other way.

As we have noticed, the main peculiar features of Deuteronomy's laws of feasts are the tendency to combine Passover and Massot more emphatically than anywhere else, allowing animals from the herd to be used for the Passover sacrifice and confining the days of the feast

proper to six. Other idiosyncrasies (the use of *bāšal* and the suggestion in the use of the word *'ālāyw* (v. 3) that the Passover itself continues for the whole week of the feast), are related to one or other of these. We have noticed that the combination of the two components of the feast has been regarded as a product of Deuteronomy's legislation, and along with the extension of the animals fit for sacrifice to the herd, evidence of Deuteronomy's tendency to make all sacrifices uniform. The use of the verb *bāšal* has been interpreted in the same way. These views have proved to be ill-founded as a result of our investigation so far. The suggestion that the six-day duration of the feast intimated in v. 8 is in contradiction with the seven-day duration in v. 3 is a different kind of argument and one about which we have as yet said nothing. There are, however, reasons for all these idiosyncrasies, and we turn to them now.

The Combination of Passover and Massot

Even though Deuteronomy was not the first to combine these two feasts, it is undeniable that in Dt. 16.1-8 we find the legislation about them combined in a new and emphatic way. The collocation of 'the month of Abib' and 'Passover' in v. 1 (when Abib was hitherto associated expressly with Massot, Ex. 23.14) is the most striking example. How thoroughgoing and, apparently, deliberately executed is the unity between the two feasts in Deuteronomy's legislation has been shown by Halbe's analysis of 16.1-7.

Halbe finds a chiastic structure in these verses, such that two Massot regulations are framed by corresponding items of legislation relating to Passover. The pattern is as follows:

A	v. 1	Passover—time (Abib)
B	v. 2	Passover—place (sanctuary)
C	v. 3	Passover—rite (no leavened bread to be eaten with Passover)
D	v. 3a	Massot–7 days
E	v. 3aβ, end b	Salvation-history
D^2	v. 4a	Massot–7 days
C^2	v. 4b	Passover—rite (no flesh to remain till morning)
B^2	vv. 5, 6a	Passover—place (sanctuary)
A^2	vv. 6aβb, 7b	Passover—time (evening-morning)[53]

No such pattern is perfect, and certain quibbles may be levelled against this perhaps rather over-tidy statement. The element B, for

example, contains a statement about ritual, as well as the information about place, which is not reflected in B^2 (though there is a detail in v. 7a, in the middle of Halbe's A^2, which might correspond to it). Such a comment is probably no more than a quibble, however, and it is hard to dissent from Halbe's own claim that this analysis shows that Dt. 16.1-7 is a 'thoroughly thought-out composition'.[54]

That being the case the question arises, Why has the author of the passage produced this subtle fusion? As we have seen, it is unlikely that he actually wished to bring about a metamorphosis in the form of the feast.[55]

Once again, I believe, the answer is to be sought in Deuteronomy's concern to emphasize Israel's imminent enjoyment of the good things of the land of Canaan. This is less obvious than it is in other laws (e.g. that on the tithe). The law of Passover-Massot is almost alone among Deuteronomy's laws of sacrifice[56] in not adopting a tone of rejoicing. It may be that there was a sort of built-in solemnity in this feast which rendered an open call to rejoice inappropriate. This is indicated, for example by the term *leḥem ʿōnî*, which describes the unleavened bread as 'bread of affliction'. It may be suggested too by the use of the term *ʿăṣeret* (v. 8) for the assembly of the last day of the feast, often rendered 'solemn assembly' (e.g. RSV). This has sabbatical overtones in Deuteronomy,[57] being accompanied by the command 'you shall do no laborious work'—a command which in Lev. 23.28ff. carried with it a dire threat to any who would break it. It may be significant that, while Deuteronomy has used *ʿăṣeret* in regard to Passover-Massot, it has dropped it for the Feast of Booths, in which connection the term actually appears in other codes (Lev. 23.36; Num. 29.35), but in which Deuteronomy wishes the theme of rejoicing to come through explicitly (v. 15). In Passover-Massot, then, an apparently essential sombreness has been respected.

Josh. 5.10-12, however, may shed light on the way in which Dt. 16.1-8 related to the enjoyment of the land. Halbe, writing about this passage, notices what he considers to be a new function of the eating of 'unleavened cakes' in their association with 'parched grain'—i.e. the first produce of the new land. Previously (Ex. 12.34, 39) unleavened bread had been associated with hurried flight. Now it is used in such a way as to suggest celebration of the end of the desert wanderings and the beginning of plenty. This is the point, in Halbe's view, at which the eating of unleavened bread ceases to be a mere element of Passover and begins to develop into a feast in its own

right.[58] The fact that unleavened bread does not re-appear after v. 10, however, shows that it is mentioned here merely by virtue of Passover. Nevertheless it is on the basis of this close identification of Passover and the eating of unleavened bread (closer, he thinks, than in Ex. 12.34, 39 where the eating of unleavened bread seems relatively independent of the blood-rite) that Halbe finds a connection between Josh. 5.10-12 and Dt. 16. 'To these "unleavened cakes" he applied, in paraphrase, the deuteronomic terminology of plenty ... the fruit of the land which (Israel) did not cultivate' (cf. Dt. 6.10ff.).[59] While Halbe's theory about the origin of Unleavened Bread as a part of the Passover is attractive, he has in fact missed the best evidence for an association of Massot with the bounty of the land. This is contained in Ex. 13.3ff. (JE). In these verses the explicit basis for the feast is the exodus from Egypt (v. 8). But the command to celebrate the feast in the new land is phrased in a way which is distinctly reminiscent of Deuteronomy:

> When the Lord brings you into the land of the Canaanites, the Hittites and the Jebusites, which he swore to your fathers to give you, a land flowing with milk and honey, you shall keep this service in this month.

That this language is close to Deuteronomy needs no demonstration. Whether the passage belongs originally to JE or is a deuteronomic addition matters little. In either case a theology strongly reminiscent of Deuteronomy has associated, albeit indirectly, the eating of unleavened bread with the good things of the land of Canaan. In this sense the deuteronomic treatment of Massot agrees with Josh. 5.10-12, where unleavened bread is associated with the first produce of the new land. It is reasonable to conclude that the reason for Deuteronomy's conscious and emphatic amalgamation of Passover and Massot in 16.1-7 is an intention to bring together that theme which was supremely expressed in the Passover (viz. memory of the exodus) and one which, according to some biblical traditions, was present in Massot (as in Josh. 5.10-12 and Ex. 13.5), viz. the enjoyment of Canaan's plenty.

This aim is achieved in spite of the natural restraints apparently imposed by the subject-matter, by means of the subtle literary fusion which we have noticed.

It may be objected to this reconstruction that no explicit connection is made in Dt. 16.1-7 between eating unleavened bread and plenty.

There may be some justice in this. But I would suggest that the objection is answered a. by reference to the tradition embedded in Ex. 13.5 which may be supposed to have been widely known; and b. by the extension of the Passover sacrifice to the herd.

Bāqār *and* bāšal

Deuteronomy's apparent permission to use animals from the flock as well as the herd for the Passover has usually been held to be in tension with all other Passover legislation, which requires a lamb or kid to be used. There have been numerous attempts to resolve this tension. Among older interpreters Keil believed that the sacrifices from the herd cannot have been intended to be the Paschal sacrifice proper, but only the accompanying sacrifices throughout the festal week.[60] The difficulty has not only been felt by those such as Keil who were concerned to harmonize. Pedersen and Hulst for example took a similar view to that of Keil.[61]

Probably the reason why such a variety of scholars have suggested ways of resolving the difficulty caused by the occurrence of *bāqār* in this context is a justifiable feeling of the sheer unlikelihood that Deuteronomy should attempt to change an institution so fundamental in the experience of Israel, and so uniformly represented elsewhere in the OT. Attempted explanations of the difficulty, however, fail to do justice to the character of Deuteronomy's legislation. We have seen already, in connection with the tithe-law, for example, how freely legal material can be moulded to reflect the spirit of Deuteronomy as a whole. When the worshipper is invited to commute his tithe first into money and then into 'oxen or sheep, wine and strong drink, whatever your appetite craves . . . ' (14.26) there is a reflection of 7.12f. and its promise of plenty. The herd and the flock are particularly mentioned (v. 13) as an aspect of the wealth of the land. In my view, the Passover-Massot legislation picks up this promise in the way that the tithe-law does, freely adapting its material so as to reflect the deeper thrust of the book.

We argued in the case of the tithe that such free adaptation of the legal material was not entirely unjustified in the light of historical actuality. So it is with the law of the Passover-Massot. In this respect the view taken by Keil, Pedersen and Hulst comes close to the truth, in the sense that the justification for the inclusion of *bāqār* in the legislation is derived from the sacrifices which would take place during the week of Passover-Massot.

2 Chr. 30.24 and 35.7ff. show that, at least when the Chronicler wrote, such sacrifices did accompany the feast of Passover-Massot. But the very notion of feasting probably implies that there were additional sacrifices even at an early period (at least in connection with Massot, which was always a feast, Ex. 13.6).[62] Where Keil *et al.* were mistaken was in thinking that the law of Deuteronomy permitted a distinct allocation of the sheep (*ṣō'n*) to the Passover sacrifice proper, and of the cattle (*bāqār*) to the accompanying sacrifices. For the law does not make such distinctions. We have noticed already the apparent anomaly in the command of v. 3, which implies that the Passover itself is to be eaten for seven days, with unleavened bread. We explained this by appeal to the profound fusion which Deuteronomy attempts to achieve between the parts of the law which apply properly to each separate element of the combined feast. The inclusion of *bāqār* along with *ṣō'n* in designating the material of the feast is part, and a quite conscious part, of that fusion. The sacrificial feasting which belongs properly to the Massot element of the feast is thus made to belong to the feast as a single entity.

It should be stressed that this fusion should not be seen as an attempt at a revolution in the actual practice of the feasts of Passover-Massot. We have seen that the combination of the two parts predated Deuteronomy, and warned against drawing conclusions for history from terminological variation in general.[63] The fusion between Passover-Massot has the theological function outlined above, which belonged to Deuteronomy's purpose of bringing together the themes of exodus and settlement. This concern, here as elsewhere, cannot be dated to any particular epoch of Israel's history. It is consistent with the presentation of the book as legislation given on the verge of Israel's occupation of Canaan.

We need refer to the use of the verb *bāšal* to describe the preparation of the Passover sacrifice only by way of a footnote to our remarks on *bāqār*. The word *bāšal* in itself is so general a term for the preparation of food that the question of contradiction with the requirement of Ex. 12.9 (where the significant phrase 'in water' qualifies the verb) hardly arises.[64] However, our foregoing remarks afford a reason why such a general term should be used. As a general term for food preparation it is particularly appropriate to cover the preparation of any or all the sacrifices involved in the week-long feast, which are no longer distinguishable from that of the Passover lamb itself. The use of *bāšal* like that of *bāqār* should not be

regarded, therefore, as an inexplicable anomaly, but as a matter of careful choice in accordance with Deuteronomy's purpose for the law.

Sabbath and Rest

A final anomaly in the law of Passover-Massot remains to be considered. In v. 8 we read:

> For six days you shall eat unleavened bread; and on the seventh day there shall be a solemn assembly to the Lord your God; you shall do no work on it.

It has been held by some that these 'six days' of v. 8 contradict the 'seven days' of v. 3.[65] Not all have accepted this, however. Some have simply supposed that the six are the first six of the seven, the last being set apart from the rest because of its solemnity as an *ʿăṣeret*.[66] It has also been suggested that the six days are the six days following the first day, the day of the Passover proper.[67] The former of these answers to the charge of contradiction is the more natural reading of the text; the latter depends on divorcing the Passover proper from the remainder of the feast in a way which the other factors we have noticed make unlikely. The feast is presented as a single entity. None of these views, however, attempts to explain why Dt. 16.8 separates the six days from the seventh (a feature which would seem to run counter to the tendency otherwise to submerge differences).

A possible answer lies in the fact that there are certain sabbatical overtones in the law of Passover-Massot. There are two close linguistic affinities between Deuteronomy's law of Passover-Massot and its own law of sabbath, in the use of the verbs *šāmar* and *ʿāśāh*. In Dt. 5.12 we read: *Šāmôr 'et-yôm haššabbāt*.... This is very similar to 16.1: *Šāmôr 'et-ḥōdeš*...[68] In view of the fact that a different verb (*zākar*) is used for the command to keep the sabbath in Ex. 20.8, it seems likely that the variation in Deuteronomy intends to bring these two commands into close relationship. The impression gains confirmation when we note that the verb *ʿāśāh* is also used in each context.[69] Carmichael has drawn attention, furthermore, to the connection that is established between sabbath and Deuteronomy's passover by the 'solemn assembly' of the seventh day (v. 8), on which no work is to be done—a detail which is omitted from the JE legislation on Massot.[70]

It is reasonable to conclude, therefore, that the Passover-Massot law is framed in such a way as to establish an affinity with that of

sabbath. The observations we have made have consequences, first of all, for the literary unity of 16.1-8. First it affords an explanation for the distinction made in v. 8 between the seventh day and the preceding six. The purpose of this is to emphasize the sabbatical character of the seventh day. Secondly, it establishes the integrity of v. 8 within the section. We have noticed that this has been challenged, partly because of the supposed difficulty presented by the 'six days'. Halbe's analysis of the law was confined to vv. 1-7 because he accepted the premise that v. 8 must derive from a different hand from v. 3.[71] The integrity of v. 8, however, is argued by the fact that in its sabbatical connotation it corresponds to v. 1, where the language recalls the sabbath law.

If the sabbatical orientation of the law of Passover-Massot explains the six days of v. 8, we are still left with the question why Deuteronomy wished to point up an affinity between Passover-Massot and sabbath. Lev. 23.8, which also prohibits work on the final day of the feast, may suggest that the affinity was recognized in legislation beyond Deuteronomy. The distinctiveness of Deuteronomy would then be merely a matter of emphasis. Carmichael, however, may be right in his belief that the sabbatical connotation in Passover-Massot is related to Deuteronomy's idea of rest (12.9).[72] That rest was appointed for Israel after they came into the promised land. We have seen how the combination of Passover and Massot in Deuteronomy was designed to make the feast embrace the enjoyment of the land as well as mark their exodus from Egypt. To that extent the idea of rest is compatible with the general thrust of the law, and may have been strong enough to motivate those features in it which we have noticed to be sabbatical.

Firstfruits

Apart from typical emphases of Deuteronomy (such as rejoicing and blessing), the only important idiosyncrasy of the laws of the other feasts in Dt. 16 (Weeks and Booths) is the failure to mention firstfruits. It has been noted that Deuteronomy is alone among the codes in not associating the bringing of firstfruits explicitly with the Feast of Weeks (Harvest). This is explicable, superficially at least, by the fact that Dt. 26.1ff. records a ceremony at which the Israelite was required to bring firstfruits. It has long been recognized that the peculiar order of the laws in Deuteronomy does not necessarily mean that the Feast of Weeks is being substantially altered there. Already

Bertholet admitted the possibility of combining the law of firstfruits in Dt. 26 with the festal calendar in Dt. 16, so that the law of the Feast of Weeks may be thought to be further defined by 26.1ff.[73]

Once again, however, the question arises why the author of Deuteronomy has chosen to place the record of the firstfruits ceremony in ch. 26 at the end of the legal corpus. The answer, in part, is suggested by the study which we have already conducted on the form of these verses.[74] There we found that this first part of ch. 26 was important in drawing out a theme which is crucial in Deuteronomy, that of Israel's response to Yahweh. As Yahweh gives the land to Israel, so Israel gives back to him in response. Chapter 26 seems to have the function of returning to this theme, dwelling on it, and bringing the legal corpus to a climax in doing so. An important element in this is the reciprocal commitment, typical of covenant, contained in 26.17ff.: 'You have declared this day . . . that he will set you high above all nations . . . and that you shall be a people holy to the Lord your God . . . ' In this way, the essence of all the legislation of chs. 12–26 is summed up, and the corpus ends with a cultic realization of that response of Israel's which has repeatedly been demanded in the laws.

It is significant that the author of Deuteronomy chooses to achieve this climax and summation through a return to laws about cultic offerings, which have been absent from the legislation since ch. 16. This reflects, no doubt, the importance of the sacrificial worship of Israel, in the eyes of the author, as a vehicle for the expression of obedience to Yahweh. In a sense, therefore, the question as to the placing of the law of firstfruits in ch. 26 is partly answered by saying that the author of Deuteronomy had to find some aspect(s) of the sacrificial worship through which to fulfil a purpose that was essentially literary, or structural. From this viewpoint, any offering might have been chosen. This being the case, we see how little we may expect this law to promulgate anything radically new in the way of actual practice. Its peculiarity has more to do with the form of Deuteronomy.

Having said that, there are reasons why the offering of firstfruits is particularly appropriate for Deuteronomy's purpose. As Carmichael has pointed out, the law of firstfruits in Dt. 26 recalls the narrative of the spies' incursion into Canaan and their return with some of the fruits of the land (Num. 13).[75] This was the firstfruit of the land which Israel enjoyed. They did not, of course, take the land at that

time; Num. 13 is a record of the frustration of that first experience of the fruit of the land while the possession of the land has not yet been achieved. Dt. 26.1ff. contrasts with Num. 13 in that now the offering of the firstfruits symbolizes the possession and enjoyment of the land long denied but now achieved.

Two factors confirm that there is a conscious recollection of Num. 13 here. First, the theme of the spies and Israel's refusal to go up into the land occurs in Dt. 1.19-40, and constitutes an important part of the prelude to the whole book. At the outset the first failure to take the land is contrasted with the imminent success in doing so, promised by Yahweh, which is a pervasive theme in the book. It is appropriate that this theme should recur at the end of the legal corpus as a sort of re-affirmation that, given Israel's obedient response to Yahweh, the land and its fruit will be enjoyed, and indeed have already begun to be enjoyed. Secondly, the verses immediately preceding the account of the ceremony of the firstfruits, 25.17-19, contain the command, and promise, that Israel shall annihilate the Amalekites. It was the presence of these, along with other tribes in the land, which caused Israel to fear to go up in the account in Num. 13 (v. 29); and it was the Amalekites and Canaanites who defeated them in their subsequent presumptuous attempt to go up in spite of Yahweh's prohibition (Num. 14.40-45).

A correspondence has also been noticed between Dt. 26.1ff. and a later incident in the course of Israel's desert wanderings. In Num. 20.14-21 Israel stands on the borders of Edom, requesting and being denied permission to march through Edom's territory. The correspondence consists in the similarity between the historical retrospect spoken by Israel's messengers (Num. 20.14-17) and the worshipper who brings his firstfruits (Dt. 26.5-9).[76] Once again there is a contrast between the frustration of the Edom incident, when entry into the land was still far off, and the confession of Dt. 26 which reflects its actual enjoyment.

Conclusions to Chapter 6

In our survey of the historical background of Deuteronomy's feast-laws and comparison with other codes, we found reasons to challenge the view that Deuteronomy was the first code to attempt to unite the Feasts of Passover and Massot. Each feast could have originated in Israel's experience prior to the settlement in Canaan. And there is

evidence from JE texts that they were already united prior to Deuteronomy. (This was supported by evidence which suggested that the details about the celebration of Passover and Massot recorded in the P sections of Ex. 12, where the two feasts are united within the framework of a specified week, might also have been known by the compiler of the law of Deuteronomy.)

Similarly, the command to celebrate Passover-Massot 'at the place which the Lord your God will choose' did not constitute an attempt to transform the manner of the celebration of the Passover. There was evidence a. that the early Passover celebration in Israel was centralized, and b. that a certain tension between centralized celebration and family-orientation existed essentially in the feast.

Similarly, the other feasts, Weeks and Booths, seemed to have had a more or less uniform history in OT times. There was a hint that in the case of the Feast of Booths, the corresponding law in H (Lev. 23.39ff.) existed prior to that of Deuteronomy.

All these factors tell against the view that Deuteronomy's legislation on the feasts represents a middle stage in the development from primitive to elaborate arrangements. The elements in the feasts which Deuteronomy knows are ancient; and it is unjustified to conclude that those which are omitted are unknown. Specifically, there is no reason to associate Deuteronomy's laws with the reforming measures of Hezekiah or Josiah.

Our examination of the laws in 16.1-17 themselves suggested alternative reasons for their peculiarities than their provenance from a seventh-century reforming movement. Deuteronomy's insistence on the amalgamation of Passover and Massot was to be explained, we suggested, by a concern to bring together the themes of gratitude for the exodus and enjoyment of the new land. The amalgamation of the two feasts together with a tendency, which we can by now recognize as typically deuteronomic, to use non-technical or general terminology, explained a number of the features of 16.1-8 which had been felt to be difficulties (e.g. the use of *bāqār* and *bāšal*). A subordinate theme in the Passover-Massot legislation was that of sabbath-rest, which also had a certain effect on the form of the law.

As was the case with other laws, the particular concerns which have moulded those on feasts are not such as to enable us to date them to a particular period within the history of Israel in the land. Once again, the details have proved to be consistent with the wider conception which Deuteronomy has of itself, as exhortation made on

the verge of the land. It is faithfulness to this conception which accounts for the peculiarities of Dt. 16. This is illustrated most clearly perhaps by the positioning of the ceremony of the firstfruits separately from the rest of the laws on feasts, at the end of the legal corpus, for a particular literary or structural purpose.

In its insistence on the theme of the enjoyment of the land, the law on Passover-Massot is akin to that on tithe. In its loose or non-technical use of ritual language it is reminiscent of the sort of usage which we found in Dt. 12. In the main, therefore, the dominant influences on Dt. 16.1-17 are such as have been noticed before. The theme of rest, on the other hand, is introduced here for the first time since its adumbration in 12.9f. Like that of freedom in the law of firstlings it is a minor theme, showing how far the author of Deuteronomy is prepared to give rein to his imagination in applying theological teaching through the laws. Our study of the laws of feasts adds to the evidence which we have accumulated from the other cultic laws, showing the extent of the theological influence on the legislation, and the difficulty in postulating a historical background for it other than that which Deuteronomy itself provides. It also echoes our study of other laws in putting a serious question-mark against the priority of Deuteronomy over the laws of P.

Chapter 7

PRIESTS AND LEVITES

Having examined all those laws of Deuteronomy which regulate cultic offerings, we come now to the officials of the cult. The legislation pertaining to the role of the priests and Levites is contained in 10.8f. and 18.1-8. As important, perhaps, is the total silence about that role in the laws about offerings. This silence, together with Deuteronomy's unique presentation of the Levites' relation to the cult in the context of an appeal to the offerer's generosity (as at 12.12), is sufficiently anomalous to bring the question of the clergy's role in Deuteronomy within the purview of our enquiry into the extent of the influence of the book's theology upon the form of its laws.

The problem of the relation of Levites to the priesthood also has an important historical dimension. Wellhausen's interpretation of it was, according to Kaufmann,[1] the one pillar of his reconstruction of Israel's history which remained unshaken by later criticism.

Our approach to the question will be similar to that which we have adopted elsewhere. We shall begin, in the first part of the chapter, with a survey of the prevalent view of the history of the cultic officials. In the second part we shall consider more particularly the evidence within Deuteronomy, and see how its presentation relates to a wider deuteronomic purpose. The two parts will then be related so as to draw conclusions for the *Sitz im Leben* of Deuteronomy's material.

I. *Priests and Levites in History*

Wellhausen's Thesis

According to the OT itself, there were two levels of cultic officials from the time of Moses. Aaron and his sons were set apart to the full

priesthood (Ex. 28f.), and the 'tribe of Levi' given to them to perform subordinate cultic duties (Num. 3.5ff.). Since Aaron is also a member of the tribe of Levi, this is in effect a division of the tribe into a superior and an inferior order, priests and Levites. For Wellhausen, however, whose reconstruction[2] still forms the basis of modern discussion of the problem, this represents the latest stage in the history of the priesthood. In Israel's earliest history there was no priestly class, and anyone could perform sacrifices. The phenomenon of priesthood arose only with the advent of great sanctuaries. Even then priests did not immediately acquire a monopoly of sacrifice. Their rise to prominence occurred only with the emergence of the monarchy. Originally priests were not associated with any particular tribe. Rather, different priestly families arose, independent of each other, and in the north largely independent even of the king. This north-south division is the vital one. The Zadokite family was firmly entrenched in Jerusalem and the royal favour.

Prior to Josiah's centralization of the cult, a development took place, mainly in the north, which made the priests into an influential grouping which could take its place alongside the tribes of Israel, and which initiated the association of priesthood with the name of Levi. The secular tribe of Levi was long since extinct. But memories of Moses—for Wellhausen the archetypal priest—and his descent from Levi led to the use of the name for the new order, and the priesthood began to acquire a hereditary character. The Zadokites, however, were denied the reputation of enjoying Levitical descent, since, on Wellhausen's view, they could trace their descent no further than to Zadok himself, who had illegitimately superseded the Elide priesthood of Shiloh.

By the time of centralization, however, there was no question of the Zadokites' illegitimacy. They were now the priests of the sole legitimate sanctuary, and it was the priestly status of the 'Levites' which was in dispute. This is the situation confronted by Deuteronomy, according to Wellhausen. Deuteronomy, though itself advocating centralization, tried to avert any loss of status on the part of the northern Levites (and indeed those in Judah outside Jerusalem). This was done by means of the legislation in 18.6-8.

The term *lakkōh^{a}nîm hall^{e}wiyyim* sets a distinction between the priests of Jerusalem, or the Levitical priests, and the priests of other places, merely called the Levites. However, this distinction once made, it immediately appears to be illusory. For the legislation of Dt.

18.1ff. is said to insist on the equal right of all Levites to serve at the central sanctuary along with the priests who are already there. This involves a particular interpretation of vv. 6f., which read:

> And if a Levite comes from any of your towns out of all Israel, where he lives—and he may come when he desires—to the place which the Lord will choose, then he may minister in the name of the Lord his God, like all his fellow-Levites who stand to minister there before the Lord.

The Levite of v. 6 is considered, on Wellhausen's view, to be one of the country priests deprived of his livelihood by the centralization of the cult. 'His fellow-Levites' (v. 7) are the (Zadokite) 'Levitical priests' (as in v. 1). The right of any Levite to be a priest of Jerusalem is thus maintained. In fact, however, the strength of the Zadokite party ensured that this programme of legislation failed, a failure thought to be recorded in the note in 2 Kg. 23.9. There we read: '... the priests of the high places did not come up to the altar of the Lord in Jerusalem, but they ate unleavened bread among their brethren'. The 'priests of the high places' are thought to be identical with the country-Levites, and the verse is considered to be a direct comment on the failure of the law of Dt. 18.6-8.

Here then is the basis of the distinction widely held to exist between Deuteronomy's presentation of the priests and Levites and that of P. Both distinguish in their terminology between 'priests' and 'Levites'. But the developed, theological distinction that is explicit in P between the upper and lower order within the tribe of Levi is thought not to exist in Deuteronomy, because the latter insists on the equality of all. This view has not been arrived at exclusively on the basis of the terminology in Deuteronomy and P. The wider historical reconstruction has been at least as important, and this is largely based on interpretation of evidence outside Deuteronomy.[3]

More recent exponents of the history of priesthood in Israel differ only in details from Wellhausen's programmatic reconstruction. The major area of debate has been the origins of the Levitical priestly claim. A.H.J. Gunneweg regarded 'Levitism' as a phenomenon rooted in the amphictyony, a conservative movement comparable to Rechabitism, and distinct from both prophecy and priesthood.[4] Gunneweg is close to Wellhausen in his denial of any real connection between the Levitical movement and a historical tribe of Levi. For him the Levitical priestly claim is based on the coming together of a

group which shared certain ideals. Both A. Cody and E. Nielsen, on the other hand, forged real links between the Levitical claim and an actual tribe of Levi. Cody postulated an early secular tribe of Levi, which became extinct as an organic unity, and whose members became scattered in Israel (cf. Gen. 49.7) with the status of sojourners (*gērîm*). This *gēr*-status then became a factor in the Levites' seeking a livelihood as priests.[5] To this extent Cody attempted to establish a kind of real historical basis to the Levitical claim. E. Nielsen went further, in claiming that the 'Levites' were essentially a priestly class, descended from a tribe of Levi that was in fact originally priestly.[6]

For all these divergences from Wellhausen, however, his fundamental picture, outlined above, has received little substantial modification, except perhaps in that the modern interpreters we have discussed tend not to think of the priesthood as having its origins in the claims of various families, as Wellhausen did. This aside, there is agreement that Deuteronomy reflects a period of Israel's history when 'Levites' were struggling to be recognized as priests. Dt. 18.1-8 is said to reflect this struggle. Gunneweg detects three stages in the Levites' history within these verses.[7] The earliest stage is represented in v. 6. This is old deuteronomic material which presupposes the Levites to be scattered throughout the towns of Israel. Beginning with this situation Deuteronomy unfolds a programme whose ultimate result would be equal priestly rights for Levites. That equality is embodied in the expression *lakkōh^{a}nîm hall^{e}wiyyim* (the Levitical priests) in v. 1. But there is also an intermediate stage, visible in v. 7b. In v. 7 we read:

> . . . then he [the Levite] may minister in the name of the Lord his God, like all his fellow-Levites who stand to minister there before the Lord.

Here Levites are evidently already to be found at the central sanctuary. But significantly they are not yet called priests. The verse contains the claim to priesthood however, because of the expression *'āmad lipnê*. While this is not invariably indicative of priestly work, Gunneweg concedes, it must be so in the present context. In v. 7b, therefore, the equation of Levite and priest is prepared for. It is not yet fact, but deuteronomic programme. The completed programme would, of course, not only give the priestly right to Levites, but also Levitize the existing priesthood. Nothing less than this mutual transformation is intended by the use of the identity-formula 'the Levitical priests'.[8] This expression reflects the third and final stage

in the process of the pressing of the Levites' case—as Gunneweg sees it—constituting a full-blown claim to the priestly status.

Gunneweg's idea of the programmatic character of Dt. 18.1-8 has enabled him to handle what is a potential difficulty for his view. This difficulty is that in vv. 6-8, which are said to stake a claim for the priestly status of the Levites, the term 'priest' does not appear. The Levites are only called Levites. Cody saw this difficulty also, and treated it in a different way.

Cody thinks of 18.1-8 as a more pragmatic piece of legislation than Gunneweg does. It reflects a particular historical situation rather than a theoretical programme. The Levite of v. 6 is indeed a country-Levite, not functioning as a priest. However, since Cody takes vv. 6-8 to assume a situation in which Levites were actually functioning as priests, the right of the country-Levites to do so too is uncontested in the passage. The intent of 18.1-8 is that any Levite should be able to come to the central sanctuary, and not only officiate there, but share in the priestly dues. This latter point underlies the expression 'Levitical priests' in v. 1. The compound makes a dual claim, a. that priests should be Levites and b. that Levites, as priests, are entitled to priestly dues. Why then are the Levites of v. 7b, who are already officiating as priests, merely described as 'his brother-Levites'? The question is the more important since it is precisely here that the priestly right of the country Levite is said to be articulated; yet the term 'Levitical priest' is said to be essential to that claim. Cody evidently feels that his case would be stronger if the term 'Levitical priest' stood here instead. His answer to the problem is to appeal to 'a sense of stylistic balance (Levite/Levites) . . . ' The fellow-Levites are really to be understood as 'Levitical priests' however.[9]

It may seem from the foregoing that the treatments of Gunneweg, Cody and Nielsen are very different from each other. But essentially they have united on the relation of Dt. 18.1-8 to Israel's history. However they view the details, they all think the passage contains the claim that Levites have a right to be priests, and that priests, furthermore, should be Levites. The relation between Levite and priest is one of equation rather than differentiation, at least in ultimate intent. In the layers where differences can be discerned it is a matter of historical evolution. It is certainly not the theoretical differentiation that P has placed between priest and Levite. Such a development was subsequent to Deuteronomy, when, it is argued, the book's programme had failed.[10] Its failure is evident from Ezek.

44.10ff., and of course P, where the Levites are definitely depicted as a 'clerus minor'. So there is perfect unanimity in the denial of a hierarchical structure within the clerical orders prior to centralization of the cult, and in the view that such a structure only began with the exile and was perfected in P. Deuteronomy however is considered a crucial transitional phase between the early conditions and the late. It is because of this unanimity that we can say the treatments we have examined have not departed essentially from Wellhausen's synthesis.[11]

Many questions are raised by the synthesis, however. There is a real tension between the belief that Levites had an early claim to priesthood in Israel, and the view that in the seventh century they were struggling, unsuccessfully at that, to make it stick. This difficulty is greatest where most is claimed for the ancient Levites, as in the case of Nielsen. It is no easier to understand how, just when the non-Levitical Zadokites had fought off the Levitical challenge they should promptly allow themselves to be 'Levitized'.[12] On the question of the terminology of Deuteronomy we have noticed the problems raised by the expression 'fellow-Levites' in 18.7. Because of considerations like these, voices of protest have been raised against many aspects of the synthesis. Is the historical understanding that underlies the interpretation of Deuteronomy really sound? Has it governed that interpretation more than the terminological usage of Deuteronomy itself? With these questions in mind, we now propose to look at some of the major arguments used in tracing the history of the Levites up to Josiah's reformation, after which we shall proceed to an examination of the terminology of Deuteronomy itself.

The Historical Data

Three major assumptions about the priesthood in pre-exilic times underlie the synthesis outlined above. They are: a. that there were non-Levitical priests; b. that there was no theoretical division between 'priests' and 'Levites'; and c. that Levites in the country attended sanctuaries which are often equated with the high places against which Josiah undertook his centralizing measures. We shall be chiefly concerned with the last of these assumptions. But a word is in place about the first two also.

a. *Were there Non-Levitical Priests before the Exile?*

The belief that there were non-Levitical priests—or as Wellhausen

expounded it, priestly *families*—before the exile, depends to a large extent on the view that Zadok was not a Levite. With a non-Levitical Zadok enthroned in Jerusalem the stage is set for a clash of priestly families when centralization occurs.

The proposition that Zadok was not a Levite is, however, by no means as secure as it once seemed. F.M. Cross has defended the Levitical ancestry of Zadok, urging the unlikelihood of the pious David installing a Jebusite in the highest priestly rank.[13] Cross's view has been supported by the discovery at Dor of what is apparently a Hebrew seal bearing the name Zadok.[14] Both Cross and Haran look to Hebron as the place where Zadok may originally have rallied to David.[15] If David's action in appointing Zadok priest was not, after all, a confirmation in power of the existing Jerusalemite priestly family (as distinct from other priestly families), then the case for a struggle between the Zadokites and other priestly families before the exile becomes very weak.[16] Cross's belief that Zadok was in fact an Aaronide has much to commend it.[17]

Apart from the claim that Zadok was of Jebusite origin –whose basis as we have seen, is dubious—the evidence for non-Levitical priestly families in early Israel is rather weak. The work of M. Haran lends support to this view, when he argues that all the pentateuchal sources agree in associating the priesthood with the tribe of Levi. Haran acknowledges that there is a paucity of evidence for Levitical priesthood in the earliest sources (JE), but attributes this to a lack of concern in those sources, being non-priestly, for ritual things in general.[18] There is, however, fragmentary evidence that the priesthood was associated with Levi. In the Blessing of Moses (Dt. 33, J) the oracle relating to Levi (vv. 8-11) gives the Urim and Thummim to this tribe (v. 8). Verse 10, furthermore, as Haran points out, lists three typical priestly functions which belong to Levi: instruction in the law, burning incense before the Lord, and sacrifice.[19] This is the best evidence in the early pentateuchal sources for Haran's contention. Other passages however, point to a similar conclusion. In Ex. 32.29,[20] for example, Moses says to the Levites: 'Today ordain yourselves (*mil^e'û yed^{e}kem*) for the service of the Lord . . . ' The same expression is used elsewhere in connection with ordination to the priesthood (e.g. Ex. 38.41; Num. 3.3; Jdg. 17.5, 12). In these cases it is always specified that the ordination is to the priesthood, whereas it is not so defined in Ex. 32.29. But the phrase in itself is probably sufficient to indicate the priestly office. Haran also mentions Ex. 4.14

(E) with its reference to 'Aaron, your brother, the Levite', and Ex. 24.1, 9 (E?),[21] which name Aaron and his sons Nadab and Abihu along with the seventy elders who accompany Moses up the mountain.[22]

The notice in Dt. 10.6f. is also important, for here the priesthood is limited not only to Levi but to the family of Aaron. If this is from E, as Haran supposes,[23] it is further corroborative evidence. (If it is genuinely deuteronomic it is hardly less important because of its association of the priesthood with Aaron in particular.[24])

The earliest pentateuchal sources do contain evidence, therefore, that the priesthood was associated with Levi in early Israel. When we add this evidence to what we have seen regarding the ancestry of Zadok, the OT's presentation of Levi as an ancient priestly tribe becomes the more plausible.

The fact that the Levites had an early claim to priesthood in Israel tells against Wellhausen's reconstruction of their history and that of priesthood. There is little, if any, evidence of non-Levitical priestly families. And a corollary of this is that Dt. 18.1-8 probably does not contain the deposit of the Levites' struggle for priestly status in competition with other priesthoods.

b. *A Priestly Hierarchy before the Exile?*

The lack of good evidence for non-Levitical priestly families before the exile has its obverse in certain hints that a basic division of rank within the Levitical orders may have existed in the monarchichal period. Both 1 Sam. 6.15 and 2 Sam. 15.24 show knowledge of the Levites' ark-bearing duties, as distinct from specifically priestly duties and in the terms of Num. 1.50 (4.15). Not all commentators have agreed that these references betray the concerns of late editors, arguing that they have historical verisimilitude.[25] The association of Levites with Bethshemesh (1 Sam. 6), a Levitical city (Josh. 21.6), may point to the historical accuracy of the account.

There are miscellaneous other suggestions of a pre-exilic priestly hierarchy. 2 Kg. 23.4 knows of such, its phrase 'the keepers of the threshold' being too general to be interpreted as belonging to any polemic about rank such as is often thought to have attended a Levitical struggle for recognition. Ezek. 40.45f. is also usually accepted as evidence of a two-tier priesthood before the exile, even where v. 46b is viewed as a Zadokite-inspired gloss.[26]

Finally, some indications of the likely correctness of this view come from archaeology and the culture of Israel's neighbours. Both

W.F. Albright and J. Gray[27] have shown from Canaanite evidence that there is no objection in principle to certain aspects of the Chronicler's report of David's re-organization of the cult. Gray lists various cultic functionaries at Ugarit besides the priests (*khnm*), and notes that cultic office was hereditary in nature.[28] In Babylon too, there were many kinds of priests and cultic officials, in a system in which the differentiations of rank were important.[29]

In our examination of the historical data relating to the pre-exilic priesthood we have now addressed two of the three questions set out above. We found little evidence for the view that there were non-Levitical priestly families before the exile, and some suggestions that, within the Levitical clergy, there may have been divisions of rank such as are known in the P legislation. These observations are relevant to our interpretation of Dt. 18.1-8, which has been held to express a claim to priesthood by those whose rights to priesthood were not universally recognized. According to this view there were different priestly families, and only one level of priestly service. Where it is recognized, therefore, that there was only one priestly family, and different levels of service—the hierarchy being already established in pre-exilic times—two of the main ingredients of the usual interpretation of Dt. 18.1-8 are seen to be illusory. We come now to consider the final ingredient, which has been used in particular to relate 18.1-8 to Josiah's reform.

c. *The Levites and the 'Priests of the High Places'*

It has been widely held that the so-called client-Levites of Deuteronomy are to be identified with the priests of the high-places, who were deprived of their livelihood by Josiah's centralizing measures. The identification is often made on the grounds of 2 Kg. 23.9, where we read that, after Josiah's defilement of the high-places, '. . . the priests of the high-places did not come up to the altar of the Lord in Jerusalem . . . ' This is taken as an explicit notice of the failure of the legislation in Dt. 18.6-8,[30] which, as we have seen, is felt to envisage precisely the situation created by Josiah and reported in 2 Kg. 22f. And the apparent specificity of the reference in 2 Kg. 23.9 is taken as confirmation of the relationship between the two passages.

However, there is no reason to think of a simple equation between the 'priests of the high-places' and Deuteronomy's Levites. Even if all of the former were Levitical, which is by no means certain, it does not follow that all Levites served at the high-places. If they had done, we

might expect to find the term 'Levites' in 2 Kg. 23.9 instead of 'priests of the high-places'.

Nor is it clear that all cultic officials at the country-sanctuaries were on the same footing. 2 Kg. 23.5 refers to 'idolatrous priests' (*kᵉmārîm*), while vv. 8f. refer to the more usual *kōhᵃnîm*. There may be two different categories of priest involved here: on the one hand, those with no legitimate claim to priesthood, who operated in an entirely irregular way (viz. the *kᵉmārîm*); and on the other, those with a legitimate claim, but who had served at high-places (viz. the *kōhᵃnê-habbāmôt*). There may also have been some with a legitimate claim, but who had not served at high-places. The statement of v. 8 to the effect that all the priests were brought out of the cities of Judah would cover all who had a legitimate claim to priesthood, whether they had served at high-places or not. Verse 9, which has a more narrowly defined term than v. 8 (*kōhᵃnê-habbāmôt* instead of *kol-hakkōhᵃnîm*), would then mean that those of the legitimate priests who had served high-places did not gain access to the altar, possibly implying that those who had not had such a connection may have been admitted to it, though this is not expressly said. In any case, because 2 Kg. 23.9 actually refers only to the *kōhᵃnê-habbāmôt*, it is unsafe to suppose that it intends to show that the law of Dt. 18.1-8 was not put into effect. Deliberate reference to Deuteronomy in 2 Kg. 23.9 could, in fact, only be established if the term 'Levites' itself were used there.

But the real objection to a simple equation of Levites and priests of high-places, as Gunneweg and Haran have seen,[31] is its essential absurdity. It is hardly likely that Deuteronomy, with its consistent opposition to the worship at the high-places, would be so accommodating to those who had kept that worship alive. In reality the two passages in question are referring to very different things. 2 Kg. 23.8f. does indeed envisage the bringing of priests to Jerusalem, but it is probably conceived as a permanent arrangement, and certainly as a measure taken against cultic corruption. Dt. 18.1-8 provides for the maintenance of Levites from the centralized worship, but probably, as will emerge from an exegesis, not on any permanent basis, nor as a result of centralization.

Is there an alternative to thinking of the Levites in the country as dependent on service at the high-places for a living? In our discussion of the tithe it became clear that the situation of the Levite in the country was not as parlous as it is sometimes imagined to be.[32] It is

mistaken, therefore, to think that Deuteronomy pictures Levites at several different economic levels (i.e. progressing from relative poverty in the situation envisaged by such passages as 14.29 to the relative wealth brought by service at the central sanctuary).[33] The 'no inheritance' theme is constant in Deuteronomy (cf. 14.29 and 18.2) and we saw that its practical implication, whenever it is expounded in the OT, is that the Levites should be supported by dues required of the people.

In what circumstances are we to suppose that they received these dues? Josh. 21.1-40 describes the allocation of 48 cities to the Levites (following the command to do so in Num. 35.1-8). A number of scholars now recognize that this tradition must have some basis in historical reality. Albright arrived at a date in the united monarchy for the lists of Josh. 21, among other reasons because it presupposed a united Israel, and because he thought it reflected the sort of administrative system David must have had.[34] Alt, denying that the list is mere fantasy, put it later, after Josiah's reform.[35] But the fact is less disputed than the dating.[36] There is evidence of priests and Levites actually living in some cities mentioned in the list. Anathoth, where Abiathar and therefore presumably the family of Eli had fields, was a Levitical city (Josh. 21.18). We have already noticed the appearance of Levites at the Levitical city of Bethshemesh (1 Sam. 6.15; Josh. 21.16).[37] The list of Josh. 21, then, in some sense reflects real conditions at one time or another in the pre-exilic period.[38]

The real significance of the Levitical cities is their nature. Many of the arguments about them have been based on the assumption that they were cultic centres. Kaufmann, for example, thought the list must date from pre-monarchical times, since he considered it inconceivable that it could omit Jerusalem otherwise.[39] Alt and Noth believed the distribution of the cities, with something of a lacuna in Samaria, reflected Josiah's measures against the high-places.[40] All these arguments assume that the Levitical cities were cultic centres. But this is to miss the fact that the cities which are to be given to the Levites are given simply as places in which they might live and have pasture lands for their cattle (Num. 35.2; cf. Josh. 21.2). The picture is confirmed by the case of Abiathar, who discharged his cultic duties at Nob and Jerusalem (and his family before him at Shiloh), yet had his ancestral fields at Anathoth, listed as a priestly city in Josh. 21.18. The cult centre and the place of the priest's residence are quite distinct. If such an arrangement can be taken to be usual, it explains,

as Haran has noted, the absence of places like Shiloh, Nob, Jerusalem, Bethel and Dan from the list of Levitical cities in Joshua.[41]

It must be judged unlikely, therefore, that Dt. 18.6-8 had in mind the transfer of Levites from a cultic centre destroyed by Josiah to the central sanctuary. Not only is there no evidence that Levites in general were officiating at the high-places, but the places where they lived were not cultic centres. Dt. 18.6-8 probably envisages a situation similar to that of Abiathar, with residence in one place, yet livelihood wholly or partly dependent on a legitimate sanctuary. These conditions seem to have obtained in Nehemiah's time also, when all cultic revenue came to the temple, yet the priests and Levites, who drew their income from it, lived in various parts of Judah (Neh. 7.73 = Ezr. 2.70; Neh. 10.35ff.). It is clear, of course, that the clergy's livelihood depended in some sense on cultic service, but to what extent is less clear, as indeed is the pattern of the Levite's life.

It emerges, therefore, that the three major assumptions upon which the prevalent view of the history of the priests and Levites and their relation to Deuteronomy is built are all highly questionable. We have challenged the view that there were different priestly families vying for supremacy. We have suggested that clear distinctions within the Levitical family were already established in the period of the first temple. There was no warrant, therefore, for seeing the conflict of rivals behind Dt. 18.1-8. Now we have seen that the passage cannot easily be associated with Josiah's reform, since 2 Kg. 23.9 is not to be regarded as a repudiation of it.

All these factors tell against the prevailing view that the history of the priesthood underwent a convulsion at Josiah's reform. According to that view, the Levites, deprived of their livelihood at the high-places, sought employment at Jerusalem and came into conflict with the Jerusalemite priests—a conflict whose result was their subordination to those priests. The conditions required for such a reconstruction, however, do not appear to have existed. There is no evidence that the Levites normally had their livelihood from the high-places. And their subordinate status may well have been already established prior to Josiah's reform.

II. *Priests and Levites in Deuteronomy*

As we have suggested several times, the interpretation of the history of the priests and Levites in Israel is intimately connected with that

of Deuteronomy's presentation of them. We proceed now to an examination of that presentation. There will be two aspects to this enquiry. First, we shall undertake a general examination of the terminology used in Deuteronomy. This is important because Deuteronomy has been said to use the terms 'priest' and 'Levite' interchangeably, and thus to reflect a historical situation in which all Levites were potential priests and no distinctions were yet known within the clergy. Secondly, we shall examine Dt. 18.1-8 in particular. We have already argued that this law was not promulgated in connection with Josiah's reform to further the cause of the Levites. Our aim in discussing the law will be to arrive at an alternative explanation.

The Terminology of Deuteronomy

Deuteronomy knows of both 'Levites' and 'priests' (cf. 12.12; 17.9; 18.1). The interpretation of the manner in which the two terms, as well as the peculiarly deuteronomic *hakkōh^{a}nîm hall^{e}wiyyim*, relate to each other depends, as we have said, upon how the history of priesthood is perceived. Thus, those who subscribe to the Wellhausenian reconstruction of the history think the terms 'Levite' and 'priest' interchangeable (potentially at least). Others who reject the Wellhausenian synthesis have insisted that the terminology in Deuteronomy is identical with that of P. The latter approach too is dependent upon a particular view of the history of the priesthood, viz. that the distinctions of P were instituted early in Israel's history, from which it is deduced that they must be discernible in Deuteronomy.

In what follows we shall have to consider whether these two kinds of interpretation are the only possibilities. Each approach is equally dependent upon the belief that the Levitical terminology of Deuteronomy accurately reflects the stage which the priesthood had reached in its historical development. At this point, therefore, it will be well to remember one result of our earlier investigations. We have seen on numerous occasions that Deuteronomy is not so precisely technical in its use of cultic terminology as P is. If the same is true of the terminology relating to the clergy, then it might be over-hasty to suppose that that terminology will accurately reflect the history. The relation of Deuteronomy to the history may, therefore, have to be re-assessed.

The Terms 'Priest' and 'Levite' in Deuteronomy

We now come to an examination of the terms 'priest' and 'Levite' in Deuteronomy. The two main approaches sketched out above have been taken, in recent times, by G.E. Wright on the one hand, and J.A. Emerton on the other. Wright believed Deuteronomy's distinction between 'priest' and 'Levite' was similar to that of P.[42] Emerton, taking issue with Wright, stated that Deuteronomy 'can move easily from one term to the other', in such a way as to give the impression that it made no sharp distinction between different kinds of Levite.[43]

The two places in Deuteronomy where the alternation between 'priest' and 'Levite' is most striking (apart from 18.1-8) are 27.9-14 and 31.9, 25. Do these passages testify to a distinction on the pattern of P, or to an 'easy movement' in Emerton's terms? The former, 27.9-14, occurs in the command to Israel to keep a ceremony upon entry to the promised land re-affirming the covenant with Yahweh. In v. 9 the 'Levitical priests' call the people to attention; in v. 12, the tribe of 'Levi' stands alongside other tribes on Mt Gerizim, 'to bless the people'; and in v. 14 the 'Levites' are called upon to declare to Israel the warnings which follow in vv. 15-26. The first impression on reading these verses is that each of the three terms must mean something different. Indeed, the Levitical priests in v. 9 and the Levites in v. 14 are not actually doing the same thing. The *Levitical priests* having called Israel to silence, Moses declares what the *Levites* shall do at a later date. However, it is likely that Josh. 8.33 is decisive in equating the Levites and Levitical priests in Dt. 27, for there the latter term is used of those who actually take part in the ceremony at Gerizim and Ebal. Here, then, we have indeed a case of 'easy movement' from 'Levitical priest' to 'Levite', with the two terms meaning the same thing. It is interesting to notice, however, that many of those who, like Wright, maintain a difference between priests and Levites in Deuteronomy accept that the 'Levites' are identical with the priests in this particular case, for the simple reason that, since the tribe of Levi is among the other tribes on one of the mountains, it can only be a minority of the tribe who declaim to Israel the warnings of vv. 15-26.[44] This suggests that while there may be a certain inconsistency or looseness in the way in which the terms are used, the writer of Deuteronomy may nonetheless have been aware that distinctions existed within the tribe of Levi.

A similar conclusion is probably warranted for 31.9, 25. In v. 9 we read that Moses wrote the law and gave it to *'the priests the sons of*

Levi, who carried the ark of the covenant of the Lord . . . ' But in v. 25 we find Moses addressing '*the Levites* who carried the ark of the covenant of the Lord'. It has been argued that different groups of people are referred to in each of these verses. R. Abba has argued for overlapping functions of priests and Levites throughout the deuteronomistic history, the priests taking over the Levites' ark-bearing duties on solemn occasions.[45] In favour of this view it may be said that, here as in ch. 27, the activities of 'the priests the sons of Levi' (v. 9) and of the Levites (v. 25) are different. It has been suggested, for example, that the 'law' entrusted to the Levites in vv. 24ff. refers exclusively to the song which Moses has been ordered to write (v. 19).[46] However, it is likely that v. 26, with its command to put 'this law' beside the ark of the covenant—the first such command in the chapter—refers back to the law of v. 9 as well as the song. Here too, then (v. 25), the term 'Levites' may refer to the same people as are called priests in v. 9. So Abba's attempt to extrapolate from his view of the relation of priests and Levites in the deuteronomistic history is unsafe.[47] From our observation above that Josh. 8.33 defines the Levites of Dt. 27.14 as Levitical priests, it seems that the deuteronomistic history may sometimes use the terminology in a more precise way than Deuteronomy itself.

Our preliminary enquiry into the relation between the terms 'priests' and 'Levites' in Deuteronomy shows that the term 'Levites' can be used when the reference is to priests. We have now to ask whether it follows that Deuteronomy did not distinguish between upper and lower clergy.

A Distinction Between Upper and Lower Clergy?

Two major factors suggest that even though the term 'Levites' can be used in Deuteronomy when priests are indicated, Deuteronomy nonetheless is aware of distinctions within the tribe of Levi.

The first is the fact that Deuteronomy not only knows of the setting aside of the tribe of Levi to minister to the Lord (10.8) but also of the priesthood of Aaron and of his son Eleazar (10.6). There has been some discussion as to the originality of vv. 6f. in this place. But, as Abba has noted,[48] there can be little question of a priestly gloss here. Driver, who challenged the originality of the verses, thought they had actually been taken from JE.[49] And there are traces of a deuteronomic style in these verses too.[50] If they are not originally deuteronomic, therefore, they have at least been incorporated

into Deuteronomy from older material to stand naturally alongside the statement about the whole tribe of Levi.

The second major factor has been treated at some length in ch. 4, and concerns the fact that the phrase *ka'ašer dibber-lô* in 18.2, like its variant in 10.9, appears to refer back to the regulations for the clergy's perquisites in Num. 18.[51] The most recent advocate of this view, in specific connection with Dt. 18, is J. Milgrom. He believes that the expressions *ka'ašer nišba'* and *ka'ašer dibber* in Deuteronomy indicate that in these places Deuteronomy has drawn on certain sources, and that in this case the source is Num. 18.[52] It seems, then, that the author of 18.1-8, however he uses the Levitical terminology himself, knows of legislation where a distinction is made between the priestly upper clergy and the lower Levites.[53]

One final point may be made in support of the foregoing. It is often maintained that the terms *šērēt* (10.8; 18.7) and *'āmad lipnê* (10.8) are distinctively priestly in their application.[54] This is not conclusive, however, for two reasons. First, as Abba has maintained against Driver and Brinker,[55] there is no consistent difference in the way *šērēt* is used of priests on the one hand and of Levites on the other. Against Brinker's claim that the verb is only used with an object in the case of the Levites, Abba lists five passages where the verb is used intransitively (7 times in the 5 passages) with Levites as the subject.[56] Similarly *'āmad* is used of both priests and Levites.[57] This means that the reference in 10.8f. is not necessarily to distinctively priestly duties only, but might apply equally to the upper and lower cultic service. Secondly, the very attempt to answer the questions raised by 10.8f. by appeal to the use of terminology in P begs the question whether the author of Deuteronomy will use it similarly even if he knows it. If, as we have suggested, Deuteronomy's use of the Levitical terminology is individual, and known divisions within the tribe of Levi do not always appear, it is likely that all the related terminology (as *šērēt*, etc.) is used just as individually.

What principles, then, should govern our interpretation of the passages which relate to the role of the clergy in Deuteronomy? There is evidence that the distinctions within the tribe of Levi such as are known in Leviticus and Numbers were familiar also to the author of Deuteronomy. Yet equally it seems that they have not been clearly enunciated.

An Analogy with the Book of Joshua

It seems fairly clear that we should not read into Deuteronomy's normal use of the term 'Levite' P's use of the term to designate lower clergy. A more pertinent analogy is the use of 'Levites' in the book of Joshua.

The book of Joshua knows the divisions within the tribe of Levi as they are contained in the P legislation. This is clearest in ch. 21, where we read that 'the heads of the fathers' houses of the Levites came to Eleazar the priest . . . ' (v. 1) to claim the cities in which they should dwell. In the subsequent allocation a distinction is made between the Levites who were descended from Aaron (v. 4) and other Levites who were not (5ff.). The same distinction is evidently made in Josh. 14.1ff., again referring to the distribution of the land, organized by Eleazar the priest, in conjunction with Joshua. Yet here (v. 4) the tribe of Levi is designated *in toto* by the term 'Levites'. It seems, then, that a precise usage which acknowledges the distinctions within the tribe co-exists with a looser usage according to which descendants of Aaron and other members of the tribe are designated undifferentiatedly as Levites. This is confirmed by Josh. 18.7, where we read of the Levites, again referring to the whole tribe, that 'the priesthood (*hakk^{e}hunnāh*) of the Lord is their heritage'.[58] It is clear that the authors of Joshua do not think that all members of the tribe are priests. Yet there is a loose application of it to the tribe in general as that which marks it out from other tribes.

This loose usage in the book of Joshua is akin to the common usage of Deuteronomy. In both cases the term 'Levites' designates the whole tribe without articulating distinction within it. The relevance of this for Deuteronomy becomes more impressive when it is realized that Josh. 21 is usually ascribed to P. This means that the looser usage of 'Levites', like that which is common in Deuteronomy, is also possible within the framework of P alongside the more precise usage which distinguishes between the sons of Aaron and others. Josh. 18.7 has been attributed to deuteronomic redactional work, because of its association of priesthood with all the tribe of Levi.[59] This is to overlook the fact, however, that every other occurrence of the term *hakk^{e}hunnāh* in the OT is in either P or Ezra–Nehemiah.[60] In addition, Josh. 18.7, along with 13.14 and 14.3, which also intimate Levi's lack of a territorial inheritance, begins to answer the question that is inevitably raised by the allocation of land to all the other tribes, viz. How does the tribe of Levi fit into the scheme of things?

The question is finally answered in ch. 21 in the allocation of Levitical cities. The intimations about Levi's landlessness are, therefore, an essential part of the cycle which concerns the division of the land. We have seen that the term 'the Levites' in 21.1 makes no distinction of rank within the tribe, even though the verse evidently belongs to what follows and therefore to P. The reason for this is that the term deliberately takes up the theme of 13.14; 14.3; 18.7, viz. the landlessness of the tribe of Levi. This brings 18.7 (and 13.14; 14.3) within the scheme of P, and suggests that they should be considered, ultimately at least, to have emanated from P. In answer to the question why they do not make the distinctions of rank within Levi that are usually found in P, it can only be said that such distinctions are not relevant in these particular statements. The landlessness of Levi applies to the whole tribe without distinction. The sons of Aaron received cities instead of territory, on the same basis as others (Num. 21.13ff.). On the question of distinctions of rank in P it has to be said that these are only articulated when occasion demands. In Josh. 21.4ff. the occasion is the allocation of cities; in Num. 4 it is the different duties of the particular Levitical families.

The relevance of these data for the interpretation of Deuteronomy is not merely that a usage like that of Deuteronomy is found within the P strata of Joshua, but that that similar usage occurs in contexts which reflect the common theme of Deuteronomy's references to the Levites, viz. the landlessness of the tribe as a whole. In the case of 'Levi' in 10.9, of the Levite repeatedly (12.12; 14.27; etc.), and in the most detailed legislation regarding the Levites in 18.1-8 (esp. vv. 2, 5), the governing factor in the presentation is the landlessness of the tribe as a whole. The point that is chiefly made about Levites in Deuteronomy is something which affects each member of the tribe equally, regardless of status within it. Since Deuteronomy does not go beyond stating the principle of the Levites' landlessness (i.e. to an enumeration of Levitical cities) it has no occasion to articulate distinctions within the tribe.

These data mean that a comparison between the usage of Deuteronomy and P is not so straightforward as is sometimes thought. The fact that Deuteronomy speaks only of the tribe of Levi as a whole cannot be taken as evidence that its author(s) were unaware of distinctions within it. The analogy with Joshua suggests that Deuteronomy's usage is determined primarily by its own purposes, and that comparisons with other legislation about priests

and Levites do not yield clear conclusions about the development of their history. In this way Deuteronomy's terminology relating to the clergy is similar to its sacrificial terminology.

One more observation may be made about Deuteronomy's Levitical terminology before we look in more detail at 18.1-8. On the question of the relation of the country-Levite to the altar, Deuteronomy's use of the terms 'priest', 'Levite' and 'Levi' fully supports the conclusions we reached in discussing the historical data. The latter showed that, in pre-exilic times, a man's priesthood was not constituted by residence at an altar, but that priests and Levites alike lived in places where there were no altars. Conversely, not only the priests but also the lower clergy derived income from cultic dues, presumably mediated through a cultic centre. Our study of the terminology of Deuteronomy shows that the distinction between the terms 'priest' and 'Levite' in that book does not correspond to a distinction between 'altar' and 'country'. The term 'Levite' merely denotes belonging to the landless tribe, and says nothing about status within the tribe. Applied to the crucial 18.1-8, this suggests that it should not be interpreted as a programme for making 'Levites' into 'priests'. Deuteronomy does not aim to press such a claim. (Contrast Num. 16, where a claim by Levites to priestly rights is clear and explicit.)

The Meaning of Deuteronomy 18.1-8

How then should Dt. 18.1-8 be interpreted? Conventional form-critical analyses have isolated an old 'priest-law', consisting essentially of part of v. 1 and vv. 3, 4 and considered the legislation about the Levites as redactional work attributable to deuteronomic interests.[61] Such analyses, however, depend upon the prevalent opinion that 18.1-8 aims to make Levites into priests, which we have found to be false. Consequently, they do insufficient justice to the wider concerns of Deuteronomy with regard to the Levites. It is safer procedure to ask first of all what the text means as it stands.

It seems to me that the function of 18.1-8 is to express the relation of the whole tribe of Levi to the inheritance of Israel. On this understanding, the whole passage refers to the whole tribe. Our justification for this comes in part from what we have discovered about the use of the term 'Levites' elsewhere in Deuteronomy. It also comes, however, from the passage itself. The statement regarding the lack of inheritance (vv. 1, 2) bears upon the tribe as a whole. And in v. 5 the priest is said to be chosen 'out of all your tribes'. Despite the

variations in terminology, therefore, it is the whole tribe that is always in view. For the relation between the terms 'Levitical priest' and 'Levite', we have to turn to 27.9-14 and 31.9, 25 (as well as the usage in Joshua) for our analogies. In our treatment of those passages we saw that the same people were designated by each term. The use of 'Levites' in each case must be taken as a kind of shorthand for the fuller expression which has recently occurred in the context. It might be thought that since, on this view, the terms 'priest' and 'Levite' are, for practical purposes, co-extensive in 18.1-8, the way is paved for seeing the passage as an attempt to make non-priestly Levites into priests. But analogy within Deuteronomy itself is against such an interpretation. And in fact the use of the terms in 18.1-8 does not have the force to establish an equation where there was none before. They would only have such force if the term 'priests' or 'Levitical priests' appeared in v. 7, instead of merely 'fellow-Levites'. It is true that there does not appear to be much difference between 'priests' and 'Levites' in 18.1-8. But this is because both terms are subordinate to the idea of the tribe as a whole. They are not set over against each other.[62]

The structure of the passage furnishes further evidence that its theme is the relation of the whole tribe to Israel's inheritance. The vocabulary through which this structure may be observed is: a. that which concerns the material benefits to the Levites (*ḥēleq wᵉnaḥᵃlāh*) and b. the Levites' 'brothers'—*'eḥāyw*—referring to the rest of Israel in v. 2, and *'eḥāyw hallᵉwiyyim* in v. 7. First, there is a chiastic structure involving *ḥēleq* and *'eḥāyw*:

v. 1	*ḥēleq*
v. 2	*'eḥāyw*
v. 7	*'eḥāyw (hallᵉwiyyim)*
v. 8	*ḥēleq*

This stylistic pattern corresponds to the idea that the Levites, while they have no territorial 'portion' in the sense that other Israelites have, nevertheless have a 'portion' of a different kind among their fellow-Levites. The dominant position of the noun at the beginning and end of the section establishes its theme—the provision for the tribe of Levi. The recognition of this structure, furthermore, makes it clear why the expression *'eḥāyw hallᵉwiyyim* occurs in v. 7, instead of *hakkōhᵃnîm* or *hakkōhᵃnîm hallᵉwiyyim*. It serves to draw attention to the brotherhood within the tribe of Levi, in parallel with the

brotherhood of Israel as a whole. It follows once again that subdivisions within the tribe are irrelevant.

Secondly, the relationship between *ḥēleq* and *naḥ^{a}lāh* reveals something about the meaning of the passage. The phrase in v. 1 may be considered to announce the contents of the succeeding verses in a specific way. The announcement made, vv. 2-5 (1b-5) deal with the Levites' *naḥ^{a}lāh*; and vv. 6-8 with their *ḥēleq*. It is significant too that the order in which the words occur in the announcement (*ḥēleq—naḥ^{a}lāh*, v. 1) is reversed in the treatment itself (*naḥ^{a}lāh*, vv. 2-5; *ḥēleq*, vv. 6-8). The difference between these two subsections is that the former (vv. 2-5) sets out the principle which governs the relation of the Levitical tribe to Israel's inheritance. And in practice this means an entitlement to cultic dues,[63] some specific intimation of which follows in vv. 3-4. Verses 6-8 then provide an answer to the question which was raised by our study both of the history of the priests and Levites and of the terminology related to them in Deuteronomy, viz. What is the relation of those members of the tribe of Levi who live away from the sanctuary to the altar upon which they depend, in whole or in part, for their livelihood?—a question which applied to the upper and lower clergy alike. In other words, vv. 6-8 tells us how the principle stated in vv. 2-5 was put into practice.

Our interpretation of Dt. 18.1-8 may be set out in the following way therefore:

> 18.1, 2. The Levitical priests, that is, all the tribe of Levi, shall have no portion or inheritance with Israel; they shall eat the offerings by fire to the Lord, and his rightful dues. They shall have no inheritance among their brethren; the Lord is their inheritance, as he promised them.

These verses set the theme of vv. 1-8 as a whole. They show that all the members of the tribe of Levi have a right to share in the proceeds of offerings made at the altar. This is the manner in which they shall share in the inheritance of Israel. The term 'Levitical priests' may be taken as equivalent to 'all the tribe of Levi' (contra Wright).[64] It serves to define the subject-matter of the pericope it introduces as the priestly tribe. This does not necessarily mean, however, that all members of the tribe of Levi are stated by Deuteronomy to be priests. The phrase need presuppose no more than that priesthood belongs to the tribe of Levi, in the sense of Josh.

18.7. Verse 2b, with its reference to Num. 18, does suggest that a division within Levi is known, even if not articulated.

> 18.3, 4. And this shall be the priests' due from the prople, from those offering a sacrifice, whether it be ox or sheep; they shall give to the priest the shoulder and the two cheeks and the stomach. The first fruits of your grain, of your wine and of your oil, and the first of the fleece of your sheep you shall give him.

Here the term 'priest' probably stands simply for 'Levitical priest'. It may carry its specific sense (i.e. upper clergy); but if so the context of the whole tribe suggests that no stress is laid upon it. The following verse leads to a similar conclusion.

> 18.5. For the Lord your God has chosen him out of all your tribes, to stand and minister in the name of the Lord, him and his sons for ever.

The phrase 'and his sons' may contain a specific reference to priesthood (cf. Ex. 28.1; Dt. 10.6; 1 Sam. 2.27ff., where the subject is priestly succession). But against this the phrase 'out of all your tribes' reaffirms that the issue is the place of the tribe as a whole (Levi) among the tribes in relation to the inheritance.

> 18.6-8. And if a Levite comes from one of your towns out of all Israel, where he lives (and if he comes), according to the desire of his heart, and (if he) serves in the name of the Lord his God like all his fellow-Levites who stand to minister there before the Lord, they shall have equal portions to eat, besides what he receives from the sale of this patrimony. (My translation)

The term 'Levite' here simply denotes a member of the tribe of Levi, without regard to status within it. It has thus a similar function to 'Levitical priest' in v. 1. It has not, however, the force to establish an equality between 'Levite' and 'priest'. That would require, as we have seen, 'priests' or 'Levitical priests' in v. 7 instead of 'fellow-Levites'. No stress is laid in vv. 6-8 on the correspondence that exists between 'Levite' and 'Levitical priest'.

The foregoing interpretation of the passage suggests that it constitutes provision for the continuing application of a fundamental principle, viz. the livelihood of the whole Levitical tribe. The principle would be applied again and again over a long period. It seems incompatible with the view that the law was precipitated by Josiah's reforming measures, which, it is said, deprived the Levites of their livelihood at sanctuaries throughout Judah. We have seen that

it is precarious to make a simple equation between the country-Levites and the priests of the high-places. In reality many Levites may have lived only in indirect dependence on a sanctuary, and possibly the central sanctuary at that. It is true, of course, that under Josiah there was a mass influx of 'priests' into Jerusalem (2 Kg. 23.8). But this was a measure taken against the possibility of further abuses, and has nothing to do necessarily with the principle stated in Dt. 18.1-8. It was not a case of transferring Levites from one place of work to another.

In fact, certain scholars, while accepting the more usual interpretation of 18.6-8, have expressed the opinion that the verses do not require or envisage permanent removal to the sanctuary.[65] Their idea is that Levites probably came occasionally, for limited periods of time and then returned home. The terms of vv. 6-8 actually support this interpretation.

Versions and commentators have differed about the translation of vv. 6-8 chiefly on the question of where the protasis of the conditional sentence ends, and where the apodosis begins. AV, RV, NASR, and NIV take the apodosis to begin at v. 7 with *w^{e}šērēt*. On this view, the burden of the sentence is that, if the Levite comes, he may serve. The issue is his right to serve. Driver, however, followed by Hulst, carried the protasis through to the end of v. 7.[66] The rendering given above reflects their view, and has been adopted because the syntax of the sentence almost certainly favours it. The succession of verbs is *w^{e}kî-yābō' . . . ûbā' . . . w^{e}šērēt . . . yō'kēlû*. The natural syntactical break comes where the waw-consecutives cease. The simple imperfect *yō'kēlû* makes the statement that the phrase *w^{e}kî-yābô'* led us to expect.[67]

The effect of the reading of Dt. 18.1-8 which we have adopted, as opposed to those which make the apodosis begin with v. 7, is that the sentence may no longer be taken to address the question whether the Levite may come to the sanctuary. Rather the sentence is a crescendo building up to its essential point. The Levite's entitlement to serve is not in question, but is rather assumed; and the point is that, when he serves, he may share the perquisites with those who serve beside him. The phrasing of 18.6-8, therefore, supports the conclusions reached above in our historical investigation. It confirms that the verses are not associated with centralization of the cult, but rather legislate for a continuing situation. It is a situation in which all members of the Levitical tribe stood in some relation to the sanctuary but did not

necessarily live there. Some may have lived nearby and officiated often, while others, living at a distance, came less frequently. For this reason it seems that Dt. 18.6-8 refers to a period prior to Josiah's centralization, since at that time all the priests were brought to Jerusalem, and the law would no longer have been relevant. The terminology shows, furthermore, that 18.1-8 as a whole is not concerned with the relative status of 'priests' and 'Levites'. We have already suggested that the very way in which the term 'Levites' is used in Deuteronomy indicates this. The suggestion is confirmed by the fact that there is no question in 18.1-8 of the Levite's entitlement to serve. We need have no hesitation in concluding, therefore, that in 18.6-8 as elsewhere in Deuteronomy, the term 'Levite' simply connotes membership of the tribe without regard to divisions within it. So the passage does not rule out the possibility that in the period to which it refers the division of 'Levi' into priests and Levites was already established. To record such a division, however, was not germane to its purpose. That purpose was to show in what way the landless tribe would enjoy Israel's inheritance.

An Explanation of Deuteronomy's Presentation of the Levites

The foregoing has shown that Deuteronomy's distinctive presentation of the priests and Levites is due, in part at least, to the fact that the book's interest in them is directed to the tribe as a whole, and concerns its inheritance in Israel. This was particularly clear in 18.1-8. Is there, however, a more underlying purpose in the presentation of the Levites in the book as a whole?

It is widely recognized that Deuteronomy's treatment of the cultic functionaries, as of cultic matters in general, is not of the same order as that of P. A.C. Welch, followed by von Rad, thought that there was much that Deuteronomy simply assumed and left unsaid about priests and their functions.[68] A.H.J. Gunneweg has spoken of a 'conspicuous reticence on the part of Deuteronomy regarding everything cultic, in the narrower sense of priestly and sacrificial regulations'.[69] And we have already observed that the priest is noticeably absent in Deuteronomy in places where one might expect reference to his place in the cult, i.e. in passages which deal with the bringing of sacrifices and other cultic celebrations (12; 14.22ff.; 15.19ff.; 16). Apart from ch. 26, where a ceremony is described in considerable detail, one is tempted to conclude that the priest's function is deliberately and consistently suppressed in passages

relating to the cult. The people of Israel themselves stand directly before God.

This suggests that the idea of the wholeness or brotherhood of the people of Israel may be a factor in determining Deuteronomy's attitude to the cultic officials, as it has influenced laws on other subjects. The laws of debt and slave-release (15.1-18) and the law of clean and unclean food (14.1-20) in particular require the Israelite to behave rather differently towards his 'brothers' than towards foreigners.[70] And the use of the brotherhood idea also affects the form of the firstlings law.

With regard to the presentation of the cultic functionaries, the relevant aspect of the brotherhood idea is its tendency to minimize or pass over divisions within the people. This is most obvious in Deuteronomy's normal presentation of Israel as a single entity rather than as the sum of twelve tribes. Individual tribes are sometimes referred to in Deuteronomy, of course (cf. 3.12-17; 33), but their separateness has little place, if any, in the book. Von Rad, arguing from the unifying tendency of Deuteronomy in regard to the people, thought that divisions were glossed over:

> In the conspicuous use of the phrase *kol-yiśrā'ēl* the undifferentiated bringing together of the multitude of ranks and classes within the people into one great family of *'aḥîm*, who live in *one naḥ^{a}lāh* we see undoubtedly the desire for a unified, unfragmented whole—Israel (*Gesamtisrael*).[71]

Nor was this merely accidental, in von Rad's view. Rather, he believes there was a deliberate suppression of all distinctions, whether, as he puts it, horizontally into tribes, or vertically, between one social class and another, in the interests of Deuteronomy's insistence on Israel's unity. And he points out the limits that are put on the power of the king and the claims of the priest.[72] O. Bächli sees a similar militant insistence on the unity of the people in the face of divisions which have become too pronounced.[73]

Neither von Rad nor Bächli applied their insight systematically to the question of the relation of priests to Levites in Deuteronomy, even though it seems a logical next step to suggest that, were a division within the clergy known to Deuteronomy, it would not appear. A.R. Hulst, drawing on von Rad's work, took a step nearer this conclusion. For Hulst the wholeness of the people operates chiefly in the cultic arena. From the absence of the priests in

important cultic contexts he concludes that the cult belongs to the people as a whole. And it follows that Deuteronomy 'wants to know nothing of any privilege of a particular rank or group in the cultus . . . Priestly domination is excluded.'[74] His point is that the division between the clergy as a whole and the rest of the people is suppressed in Deuteronomy. It is clear, however, though Hulst does not go so far, that the principle must apply within the clergy also.[75] This conclusion has indirect support from Bächli's view that the brotherhood idea, which he considers northern, is incompatible with the traces in Deuteronomy of a dynastic and hierarchical principle, which is southern.[76] The unifying principle would not prove in itself that Deuteronomy suppressed known distinctions within the clergy. But given that we have reason to believe that such distinctions are known, it becomes an important explanatory factor. If the author of Deuteronomy proposed to suppress all distinctions of rank within Israel, and in particular the distinction between the clergy and the rest of the people, the distinction between upper and lower clergy would become irrelevant, and indeed to let it appear would actively run counter to the unifying principle. In accepting that the distinction between priests and Levites does not appear in Deuteronomy in the way it does in P, we suggest that the reason for this is not to be sought in ever-changing historical circumstances, but in a theological emphasis such as is outlined above.

The Levites and the Inheritance

When we have recognized this much, however, we have only laid a foundation for understanding the function which Deuteronomy's treatment of the Levites has in the book. One of the decisive factors in our interpretation of the Levitical terminology in Deuteronomy was the analogy with the usage in Joshua. It was this that led us to think that the tribe was referred to as a unity, with known distinctions suppressed. And the characteristic feature in Deuteronomy's treatment which suggested that analogy was the Levites' reaction to the land-inheritance, and consequently to the rest of Israel. There is reason to believe that it is by means of this relation of the tribe of Levi to Israel, in terms of the land-inheritance, that the Levites function theologically in Deuteronomy.

The Levites, because they are *'aḥîm* in Israel (10.9; 18.2), have a full entitlement to the blessings of the land. This puts a distinction between the Levite and the *gēr*, for the latter is several times clearly

distinguished from *'aḥîm*.[77] And the importance of this difference is too little recognized when the Levite in Deuteronomy is said to have *gēr*-status. It is true that the Levite and the *gēr* (and the widow and orphan too) are often mentioned together (e.g. 14.29) as those whom the people have some obligation to support. But we have seen in our discussion of the tithe that the commendation of the Levite to Israel's care has a strong imperative force. Israel is to be careful not to forsake the Levite, just as they are not to forget Yahweh himself (12.19; 14.27; cf. 8.11). And the fact that the Levite has 'no inheritance' means in practice that he is entitled to cultic offerings. Neither of these things is true in the case of the *gēr*[78] and therefore the 'brotherhood' of the Levite puts him on an entirely different footing.

We have seen that Dt. 18.1-8 addresses itself to the question of the entitlement of the Levites in the light of their lack of territorial inheritance. This meant that the tribe as a whole was the subject of the legislation. But the same verses imply also a relationship of the tribe to the rest of the people ('his brothers'), and that what they receive is 'inheritance' for them just as the land is 'inheritance' for their brethren. This is emphasized by the unusual use of *naḥ^{a}lātô* in 18.1, as a description of the clergy's perquisites (in parallel with *'iššê Yhwh*). *Naḥ^{a}lāh* is used in this sense elsewhere only in Josh. 13.14, which appears to be dependent on Dt. 18.1.[79] It is different from the use of the word elsewhere in Deuteronomy, where the inheritance is either the land, or the Lord himself (e.g. 10.9). And in P and Joshua it regularly refers to the territory of an individual tribe (e.g. Num. 26.54; Josh. 15.20; etc.).[80] So the unique use of *naḥ^{a}lātô* in Dt. 18.1-8 seems deliberately to make the point that in receiving their perquisites the Levites have their due share in the inheritance of Israel.

We suggest, on the basis of the foregoing, that the relation of Levi to Israel in Deuteronomy is such as to be an ideal representation of how the whole people should stand both to Yahweh and to the land. This is only possible on the one hand because the Levite is a full member of the people, and on the other because he does have a real entitlement to a share in the inheritance.

The idea itself is not new. Gunneweg believed that, long before Deuteronomy, the Levite had been understood as standing in an exemplary relation to Yahweh, and that, building on that image, 'Deuteronomy raised the Levite to a "key-figure" (*Schlüsselfigur*) of the ideal people of God'.[81] Gunneweg, however, believed that the

idealness of the Levite consisted in his poverty, a poverty that was associated with his dedication to Yahweh and therefore different from that of the widow and orphans.[82]

While Gunneweg is right to recognize the idealized status of the Levite, he has in our view seriously misinterpreted the nature of the idealization. We have seen that the Levite is not presented as poor anywhere in Deuteronomy. Rather he has a fundamental share in the inheritance of Israel. Far from his poverty being idealized, therefore, it is his wealth that is idealized. And if that sounds a strange claim, we need only remember what was the theological import of the tithe legislation, viz. that the obedient spirit that recognized its dependence on Yahweh led to prosperity in the land. Herein lies the importance of our interpretation of 18.6-8. We saw in our study of that passage that its point was, not the Levite's entitlement to serve—that was beyond dispute—but his right to *eat*, to share in the proceeds of the altar.

The Levite in Deuteronomy is meant to be prosperous, therefore. His prosperity, however, is realized in dependence. He personifies the dependent spirit. His dependence on Yahweh is more conspicuous than that of his brethren, because he does not have private property in the same way that they do. His prosperity depends on the day-to-day factor of his brothers' continued obedient giving of cultic offerings. His security is therefore less evident than that of his brethren, and yet in reality they too can only be prosperous in dependence. The Levite, whose perennial dependence is ever before his brethren's eyes, yet who is prosperous, is a constant reminder of this basic principle. This at least is Deuteronomy's ideal. A poor Levite could not be an ideal figure, for his poverty, far from portraying devotion to Yahweh, would actually be a consequence of disobedience and godless independence on the part of the whole people, and a harbinger of their desprivation of the benefits of the land.

Conclusions to Chapter 7

The data about the Levites in Deuteronomy do not constitute evidence for a convulsion in their history, or in that of the priesthood in general. The historical evidence suggests that, already in the early monarchy, priesthood was regarded as properly belonging to the Levitical tribe, and furthermore that something akin to the upper and lower division legislated for by P was already known then. In addition we found that Dt. 18.1-8, which is said to be a provision for

Levites dispossessed by Josiah's centralizing measures, had nothing to do with centralization; nor did the notice in 2 Kg. 23.9 about the priests of the high-places refer back to it.

Such a reconstruction resolves the tensions which dog the Wellhausenian reconstruction. The widely recognized early claims of the Levitical tribe to the priesthood give way to a situation in the monarchy in which they actually possess it. And since there is reason to think that Zadok was after all a Levite, it comes as no surprise to find the Zadokites explicitly regarded as Levitical in Ezekiel.

It is against this rather unchanging, or at best slowly changing, background that the deuteronomic presentation of priests and Levites is to be seen. While Deuteronomy knew of a division of the tribe of Levi into upper and lower clergy, its terminology is not simply to be equated with that of P. It is not without reason that scholars have pointed to the fact that all Levites appear to be on a par in Deuteronomy. The phenomenon is to be explained, however, not by historical vicissitudes, but by theological purposes which Deuteronomy realizes through its presentation of the tribe of Levi as a whole.

The presentation of the Levites is related to the fact that they too are 'brothers' within Israel. The tribe as a whole stands alongside the other tribes in its entitlement to enjoy the fruits of the land even though it does not have territory of its own. To make distinctions between upper and lower clergy would not contribute to an enunciation of this, and could even hinder it. The presentation of the Levites in Deuteronomy illustrates first of all, therefore, the brotherhood of Israel.

Equally importantly, it shows that Israel's enjoyment of the land depends upon her obedience to Yahweh. The Levite in Deuteronomy is not to be thought of as poor, but as having the right to be rich. His wealth, however, is realized in service of Yahweh. In this way the position of the Levite typifies that of all Israel.

Deuteronomy's presentation of the cultic functionaries has a great deal in common with its presentation of sacrificial offerings. In illustrating the brotherhood of Israel it is like the law of firstlings (above, ch. 4). It is also like the tithe in relating blessing and obedience (ch. 3), and the legislation on offerings in that the terminology is not as precise as that of P when it legislates about cultic matters. It is an imprecision born of Deuteronomy's use of cultic legislation to promote its theological perspective. Here as with the sacrifices (ch. 2) terminological variation between Deuteronomy

and P cannot be used to plot historical development, either within or beyond Deuteronomy.

CONCLUSIONS

a. At the outset of our study of Deuteronomy's cultic laws, we noted that it would inevitably lead us into a wide range of related questions, and indeed we have now seen that any such study must have implications not only for the form and meaning of Deuteronomy's legislation, but for pentateuchal criticism and the history of Israel's religion. Our study has seriously called into question the time-honoured association of Deuteronomy with Josiah's reform. That association, which depended to a considerable extent upon the possibility of interpreting the laws in terms of the reform, placed Deuteronomy firmly in the middle of a chronological development from JE to P. We have discerned three factors, however, which recurred consistently in our investigation of the laws, and which made the traditional dating of Deuteronomy untenable.

(i) The laws tend to use terminology in a manner that is, by contrast with legislation attributed to P, inexact. The prime examples of such inexactitude are the lists of offerings in ch. 12 and the regulations about priests and Levites. There is no carelessness here. Rather the loose use of terminology is related to Deuteronomy's readiness to paint a partial picture of the ritual pertaining to any aspect of the cult in order to further its overriding theological and hortatory concerns. The point of Deuteronomy's legal section, as of the book in general, is to inculcate a spirit of law-keeping rather than to promulgate law as such (even though it does actually innovate on occasion). It was a failure to recognize this characteristic of deuteronomic law that led to the error of thinking that discrepancies between it and other law-codes must constitute evidence for the historical development of Israelite religion.

(ii) In some cases we found it more satisfactory to suppose that laws attributed to the source P actually preceded corresponding legislation in Deuteronomy than the reverse. In particular Deuteronomy appeared to presuppose P in the laws of profane slaughter (Lev. 17—Dt. 12) and priestly dues (Nu. 18—Dt. 18). Our study has not

addressed the date or character of P as such. But where observations about P have impinged upon it, the traditional documentary schema, with its implications for an ever-increasing sophistication in Israel's ritual religion and formative influence of the exile upon the present shape of the Pentateuch, is seen to be weak.

(iii) Finally, several of the laws have attracted their own particular misinterpretations because of the belief that Deuteronomy originated in connection with Josiah's reform. Those which have been most expressly linked with Josiah are the altar-law itself, and the laws of profane slaughter, feasts and priestly dues. In none of these, however, did we find evidence of a revolution in cultic practice of the sort that is usually held to have accompanied the reform. On the contrary there were signs of continuity in cultic practice, and indications that Deuteronomy generally legislated for conditions which characterized a considerably earlier period than Josiah. It was impossible to date the laws precisely. Indeed it would be difficult to fix a *terminus a quo* anywhere in the monarchy (though a specific link was established between the law of profane slaughter and the practice of Saul, 1 Sam. 14), so much does von Rad's 'strange breath of the timeless'[1] lie over the laws as the theology. The only qualification of this historical agnosticism that we would offer is that the laws are consistently compatible with Deuteronomy's self-presentation as speeches on the verge of the promised land. (This conclusion is fully consistent with the reservations about *Sitz im Leben* which we expressed at the beginning of our study.)

b. We saw in the introduction to our study that criticism of Deuteronomy has depended to a very large extent upon the belief that it is a composite work. At certain points in our enquiry, however, we found that passages which have been considered to have had a complex pre-history actually had a complex unity. This was true of chs. 14, 15, 16, 18, but is most striking in the case of Dt. 12, where the very features which had suggested original discreteness (viz. repetitions) were seen to belong to a tight pattern well designed to convey the salient points of the whole chapter. In this case scholarly commitment to a process of growth had diverted attention from a full appreciation of the meaning of the law. Indeed, our observations seriously reduce the plausibility of the idea of a pre-history.

What is true of ch. 12 is true of the laws in general. In the law of firstlings, 15.19b is usually regarded as the oldest element.[2] Yet it

was precisely here that we discovered a highly creative use of vocabulary (*'ābad*, *gāzaz*), drawing the firstlings law into a formal and theological relationship with the laws of debt- and slave-release in the earlier part of the chapter. In the laws of feasts, Deuteronomy's idiosyncrasies could be explained in terms of its tendency to use cultic legislation in order to reflect its theology of the richness of the land (hence the use of *bāqār* and, consequently, *bāšal*, in the Passover context).

There are clear cases, then, where it seems wrong to postulate pre-deuteronomic laws which have subsequently been expanded. The laws we have mentioned have been subjected in their entirety to the legislator's theological purposes. Our view of those laws which lack the kind of evidence for thoroughgoing unity which we find in Dt. 12, 15, 16 should probably be influenced by these latter. In Dt. 14, for example, while we found a clear unity in the chapter, none of our evidence for unity derived particularly from v. 22, the so-called pre-deuteronomic tithe-law. Taken by itself, therefore, Deuteronomy's law of tithe might plausibly be interpreted as an old law subsequently expanded. Analogy, however, particularly with the law of firstlings, renders such a view unnecessary. The basic statement in v. 22 is indeed rather bland, but this blandness is hardly a criterion for distinguishing between sources, and there is in fact no reason why the compiler of the exhortation should not have been responsible for the basic demand also. Indeed, given the impossibility of tracing a pre-history of the laws, together with the regular and consistent theological points which are made by means of the laws, it seems best to think of a single author as having been responsible for all the laws in their entirety, which we have studied. (Nor is this statement meant to rule out the possibility that the same person might have composed other parts of Deuteronomy also.)

c. The conclusions we have drawn so far are related to the question of the origins of covenant theology in Israel, and in particular the deuteronomistic theory. We have seen that the laws frequently appear to have emerged at a considerably earlier period than that of Josiah, and that they exhibit signs of unity. These facts alone militate strongly against Noth's basic premise of an original law which underwent a process of growth up to and during the exile. Without such a process, of course, it becomes impossible to postulate a development from a primitive conception of covenant to a fully-

developed conditional kind, characteristic only of the putative latter redactional stages.

Noth believed, as we saw, that what he considered to be the original law exercised an influence upon developing deuteronomistic theology, in terms of what he thought was a negative view of cult. A corollary of our study is to show that the laws, by their nature, do not convey an attitude to cult as such, one way or the other. When the role of the priests appears to be diminished in relation to the cult, it is not from an antagonism to priests. Rather their role is presupposed and affirmed, and the relative silence about them stems from a specific point that Deuteronomy aims to make about brotherhood in Israel (which has other manifestations besides its influence on the portrayal of the clergy). More important, however, is the general observation we have made that it is theological purpose which determines the form of law (even of statements often thought to be pre-deuteronomic) rather than the reverse. When we date the laws early, we date the theologizing contained in them early also.

That theologizing is, as we have seen, covenantal in a way that is thoroughgoing and in a sense that is fully conditional. Evidence for this was contained in every law. Again and again we found that laws were framed expressly to encapsulate covenantal principles. The practice of profane slaughter and the consumption of tithe, firstlings and feasts concretized the blessing promised in return for self-denying obedience. The provision for the clergy was rich to the extent that the people of Israel were faithful.

Not only were covenantal principles enshrined in the laws themselves, however, but we found evidence that the laws belonged to an underlying conception that embraced more of Deuteronomy than the legal section above. Studies involving the words 'place' (*hammāqôm*) and 'before' (*lipnê Yhwh*, *lipnêkem*) showed that the cultic laws, inasmuch as they are variations of the basic altar-law, corresponded, both in diction and conception, to key statements in chs. 1–11. The early chapters of Deuteronomy picture Yahweh bringing the people to the land; the altar-laws contain exhortations to Israel to respond appropriately. The use of language showed that the correspondence was thoroughgoing and carefully worked out.

Similarly, we found an extended parallel between the form of chs. 7 and 12. Here too the inspiration that formed one of the most important legal sections extended also to a part of the introductory section of the book, forging another link between the idea of

Yahweh's action on Israel's behalf and that of her response (in that, for example, the statement of holiness in 7.6ff. has its counterpart in 12.5ff., the latter constituting implications of the holy people's status for its practice).

We have not, of course, undertaken an exhaustive study of the relations between chs. 1–11 and 12–18(26). Yet it is clear that our investigation has important implications for an understanding of the early chapters of Deuteronomy. Studies of their pre-history depend largely on similar criteria to those employed in relation to the laws: number-change, nuances in the theology of law, and concerns which are thought to be identifiably late, especially land-theology. All of these have been called into question in relation to chs. 12–18, and there is no reason in principle why they should remain valid for chs. 1–11. Our discoveries about land-theology are perhaps most significant in this respect. Deuteronomy's interest in the land is typically regarded as having arisen in connection with the fears for its possession which attended the imminence of exile, and indeed with reflection from the perspective of exile itself. We have seen, however, that the laws of cult express in a radical way a theology of land which leaves no doubt as to its conditional possession. It was impossible to separate original law from 'deuteronomistic' expansion. This means that in chs. 1–11 also statements implying a conditional possession of the land cannot be taken *per se* as indications of late stages of redaction. Indeed, the close verbal connections we found between the language of the altar-law (based on the words *bô'*, *māqôm*, *lipnê*) are found in sections of the laws normally attributed to diverse hands:[3] in the basic parenesis of the deuteronomic author (6.23; 9.4, 28), in the deuteronomistic framework (1.8, 19), in the supposedly separate sources underlying ch. 7 (vv. 1, 26), in the secondarily deuteronomistic ch. 4 (4.38–6.10 is said to be from the same hand), and in additions to deuteronomistic material (2.25; 11.29).

The foregoing amounts to a claim for a greater unity in chs. 1–11 than is usually supposed. Such a claim is made on such general grounds as the invalidity of the criterion of number-change, but more importantly because of specific links with the language of the altar-law and the theology of the cultic laws as a whole. Since the laws were dated earlier than Josiah, the same follows for Dt. 1–11. At the very least our study calls for a radical re-appraisal of the authorship not only of Dt. 12–18 but of chs. 1–11, with greater credence given to the possibility of unity than is usually allowed.

A final word is in place on the treaty-form of Deuteronomy. We saw that the linguistic connections between chs. 1–11 and 12–18, as indeed the formal parallel between chs. 7 and 12, served to point up the relationship between Yahweh's action on Israel's behalf (in chs. 1–11) and Israel's response to that action (in chs. 12–18). This shows that the discernment of treaty-form in Deuteronomy[4] is not a matter of identifying the extent of the various constituent parts of the 'treaty'. Rather, the action-response characteristic of the treaty is found to be represented at a deep level in the language of the book. We expressed doubt, at an earlier stage of our study, whether the recognition of a form more or less equivalent to that of the Hittite treaties was really compatible with the belief, necessitated by the deuteronomistic theory, that that form was only arrived at in the latter stages of the book's composition around the time of the exile. We have found a number of reasons to challenge that theory in a fundamental way. It seems to the present author that Deuteronomy studies should in the future pay attention once again to the implications of treaty-form, which clearly have not been exhausted, rather than continue to seek the key to an understanding of the book in a theory which cannot survive close scrutiny.

NOTES

Notes to Introduction

1. E.g. Carmichael, Cholewinski, Hulst, Horst, Kaufman, Maarsingh, Merendino, Oestreicher and Welch, 1924.
2. With de Wette.
3. S.R. Driver, 1895, p. 171.
4. E.g. Horst, who distinguished four stages in the development of Dt. 12-18. Stage A represented 'pre-deuteronomic' material; B, C and D were three successive deuteronomic layers, distinguishable from each other by slightly different attitudes to cult-centralization and profane slaughter, pp. 7ff. Similar approaches have been adopted more recently by Merendino and Seitz.
5. Noth, 1981.
6. As witness the recent appearance of the English translation; and cf. E.W. Nicholson's view, expressed in the preface, that the work is a classic in the sense that 'it still remains the fundamental study of the corpus of literature with which it is concerned' (p. ix). Noth's work also underlies to a large extent A.G. Auld's recent book *Joshua, Moses and the Land*, which defends the belief in a deuteronomistic history against lingering tendencies to favour the idea of a Hexateuch. On a two-fold edition of Dtr see A.D.H. Mayes, 1979, p. 89; and now R.D. Nelson.
7. By R.P. Gordon, pp. 119f. See Weinfeld, 1972, p. 3.
8. Wellhausen, 1889, pp. 190f.
9. Mayes, 1979, pp. 34ff.
10. See below, pp. 40-42, 55ff.
11. This is argued extensively by G.J. Wenham, 1970, and taken up by J.A. Thompson, pp. 261f.
12. For the setting of Mosaic utterances within a narrative framework, see Polzin, pp. 1ff.
13. Noth, 1981, p. 14.
14. Mayes, 1979, p. 35. Auld, somewhat surprisingly, has not attempted to relate the structure of Deuteronomy to treaties at all.

15. Mayes, 1979, pp. 29ff.
16. Noth, 1981, p. 90.
17. Perlitt, pp. 55ff.
18. Perlitt, p. 77.
19. Perlitt, pp. 55, 62.
20. Perlitt, p. 61.
21. Perlitt, pp. 80ff.
22. Perlitt's basic view is largely upheld, with some modifications, by R.E. Clements, 1980, pp. 99f., 119. Contrast N. Lohfink, 1963a, who argues for a covenant tradition, and document, from Israel's earliest days as a nation.
23. See our discussion below, pp. 10ff., of von Rad, Polzin, and Diepold.
24. Noth, 1981, p. 16.
25. Defence from Minette de Tillesse; criticism from Lohfink, 1963b, pp. 239ff.
26. *Ibid.*, p. 240. The point has been accepted by S. Kaufman, p. 121, and others; see Mayes, 1979, p. 36.
27. Lohfink, 1963b, p. 240, and cf. n. 22.
28. Mayes, 1979, pp. 36f. For the extra-biblical documents he refers to Baltzer (ET), pp. 33n., 71.
29. Mayes, 1979, pp. 36f.
30. Welch, 1924.
31. We have noted that Weinfeld, though he takes an idiosyncratic view of Israel's history and of D's relation to P, accepts the main premises of Noth's theory, 1972.
32. Kitchen, pp. 90ff. Cf. Kline, 1963. A similar view underlies Craigie, 1976. Most scholars, however, do not consider that the treaty-form of Deuteronomy forces such a view; cf. McCarthy, 1978, and Weinfeld, 1972, pp. 59ff.

Kitchen's remarks about 'deuteronomism' in the ANE are in J.B. Payne, pp. 1-24. The position is currently being further worked out by J. Niehaus of Liverpool University; see his paper, 'Observations on the Deuteronomistic History', deposited in Tyndale Library, Cambridge.

33. Kitchen, in J.B. Payne, pp. 5ff.
34. Muilenburg, pp. 1ff.
35. Knight, pp. 107ff.
36. *Ibid.*, p. 113.
37. Muilenburg, p. 11.
38. N. Lohfink, 1963b. He refers to Wellek and Warren, who stress the importance of observing stylistic features, including complex patterns, 'all of which must serve some aesthetic function such as emphasis or explicitness or their opposites' (p. 180; cited by Lohfink, p. 14n.).
39. Noth, 1981, p. 93.
40. Weinfeld, 1972, pp. 191ff., and especially pp. 210ff.
41. Noth, 1981, pp. 92ff.

42. For a response to Weinfeld's belief that Deuteronomy represents a secularizing tendency see J. Milgrom, 1973.
43. See A.D.H. Mayes, 1979, p. 48, who attributes 'nearly all of 14.22–25.16, with the omission of some isolated deuteronomistic and later additions' to the original Deuteronomy.
44. Von Rad, 1929, p. 60.

Notes to Chapter 1

1. E.g. Clements, 1968; Mayes, 1979, pp. 55-81; Craigie, 1976, pp. 36-45, and see his bibliography, p. 45.
2. Von Rad, 1966c, p. 91.
3. Diepold, pp. 97ff.
4. Polzin, p. 43. His first 'voice' also emphasizes the uniqueness of Moses and Israel, whereas his second diminishes it (p. 39).
5. For the idea of Yahweh's ownership of the land, cf. von Rad, 1966c, p. 85; von Waldow, pp. 493ff. On the centrality of the land in Deuteronomy see Clines, p. 57.
6. 9.26; 18.1. Cf. 2 Sam. 20.19; 21.3; Jer. 2.7; 16.18.
7. Von Rad, 1966c, p. 85.
8. Von Waldow, p. 495. Both von Rad and von Waldow proceed from Lev. 25.23; i.e. neither idea is present in Deuteronomy explicitly. But the descriptions are in fact applicable to Deuteronomy also, as will become clear in our treatment. (For Israel as *gēr* cf. also Clements, 1961-62, p. 23.)
9. This view is essential also to Brueggemann's assessment of the land in Deuteronomy, pp. 45ff. Deuteronomy pictures the time when Israel stood on the borders of the land. 'That moment drastically re-defines who Israel will be . . . But Israel hesitates. Perhaps the hesitation is not from fear, but in the fact of an ominous recognition that life must be re-defined. Moses' speech in Deuteronomy is filled with promise and demand. It is talk about land and about Israel, about gifts and about covenant, about temptation and about faith.' Elsewhere he says: 'Torah is for Israel the way to enjoy gifts' (p. 61); cf. J. Priest.
10. H.H. Schmid, p. 124.
11. N. Lohfink observes that 6.25 draws a conclusion from the preceding verses, and speaks of a 'condition (Zustand) of *ṣᵉdāqāh*'. He has not specifically connected *ṣᵉdāqāh* and *ṭôb*, however (1963b, pp. 161f.).
12. One factor which may have given rise to a tendency to mix crops was the need for economy, different kinds of crops sometimes being sown together to save space (G.A. Smith, p. 261). Other factors are involved in this law also, however; see Smith, *ibid.*, and von Rad, 1966a, p. 141.
13. Maarsingh has pointed out that in this respect the laws of Deuteronomy are different from the laws and practices of the ANE, where lending was

generally for the purposes of gaining interest. He cites rates ranging from 20% to 50%, though there were certain safeguards for debtors (pp. 90ff.). Cf. Klingenberg: 'The Torah is the only ancient law-code which contains an express prohibition of taking interest on loans' (p. 14); and Maloney, p. 20.

14. He thought this was because Israel was an agricultural society, citing Causse, p. 39, n. 3, to the effect that trade in the OT is usually carried on by Canaanites (Maarsingh, p. 90). He almost certainly undervalues the use of money in ancient Israel, however; cf. Dt. 14.24-26.

15. Maarsingh, p. 90.

16. *Ibid.*, p. 96.

17. *Ibid.*, p. 90.

18. *Ibid.*, pp. 91f.

19. Rowley, 1956, p. 108, and Clements, 1978, pp. 61f. (among others) have remarked upon this dependence of blessing upon obedience.

20. The parallel with the moral and spiritual principle enunciated by Jesus when he said: '. . . whoever would save his life will lose it; and whoever loses his life for my sake, he will save it' (Luke 9.24) is unmistakable.

21. See below, passim; e.g. pp. 55ff., 96.

22. See above, pp. 4f.

23. The tribes are enumerated in 27.12f.; some are mentioned in 3.12-17. There are references to the tribe of Levi (18.1, cf. 10.9). The blessing of Moses, ch. 33, also names the tribes. Such references are exceptional, however.

Notes to Chapter 2

1. A full account of the history of the interpretation of Deuteronomy and its relation to the reforms of the seventh century B.C. has been admirably given by Loersch.

2. Wellhausen believed, for example, that 28.15ff. represented the exilic period, and should be dated to that time (1889, pp. 190f.). He developed the idea of an Urdeuteronomium which went through several stages of editing (*ibid.*, p. 195).

3. Thus Welch, 1924, argued for an earlier date than Josiah, and Hölscher for a later.

4. E.g. von Rad, 1953, p. 67; Welch, who argued trenchantly against understanding Deuteronomy against the background of Josiah's reform, conceded that 12.1-7 was a genuine centralizing law (1924, pp. 58f.). The isolation of the altar-law is accepted in the more recent studies of Seitz (pp. 187ff.) and Merendino (e.g. p. 122).

5. Dumermuth, p. 61; Mayes, 1979, p. 61.

6. Oestreicher, pp. 36ff. He leant heavily on the account of the reform in 2 Chr. 34f. Cf. E.W. Nicholson, 1967, p. 9 and note.

7. Lohfink and Weinfeld link it with the reform of Hezekiah (Lohfink, 1963a, p. 484; Weinfeld, 1964, p. 204). But the account of that reform hardly yields enough evidence for this to be done with confidence (2 Kg. 18.4).
8. Clements, 1965b, pp. 92f.
9. Schreiner, p. 162. On *šākēn* Schreiner has followed Noth, 1950, p. 46.
10. Cf. Dumermuth, pp. 64f.
11. Cf. von Rad, 1966a, p. 94.
12. Kraus, 1966b, p. 177.
13. E.g. Rowley, 1967, p. 106 (Shechem); Dumermuth, pp. 69ff. (Bethel); Eissfeldt, 1956, p. 146 (Shiloh). Von Rad agreed that the formula probably first applied to a northern sanctuary, mentioning Bethel and Shiloh as possibilities (1966a, p. 94; 1953, p. 38).
14. This influence is clear in Rowley, 1967, p. 106. Cf. Welch, 1924, pp. 34, 38f.; Dumermuth, p. 95.
15. Mayes, 1979, pp. 62f.
16. Noth, 1930, pp. 91ff.
17. See Mayes, 1974; Bächli, 1977.
18. Smend, pp. 11ff.
19. Irwin, p. 184.
20. Smend, pp. 64f.
21. G.W. Anderson, 1970, p. 149. De Vaux also allowed that the ark may have conferred special significance on the place where it stood, and that several tribes may have visited it (1978, p. 709).
22. See Irwin, p. 171; Smend, pp. 65ff., on Shechem; and on Gilgal, Bächli, 1977, pp. 115f.
23. See Boling, pp. 36f.; de Vaux, 1978, p. 619.
24. See Fohrer, p. 214, who thinks the core of the narrative was written before the formation of the state. Cf. G.W. Anderson, 1959, p. 69.
25. E.g. de Geus, p. 196. Cf. Bächli, 1977, who thinks Jdg. 20 cannot be exploited historically while its literary-critical problems remain unsolved.
26. Noth, 1930, p. 166.
27. Budde, 1897, p. 133; Orlinsky, pp. 380ff., took the view that Jdg. 20 was a composite product from the sanctuaries of both Mizpah and Bethel. Cf. Budde, *ibid.*, p. 126; Smend, p. 68; Rowley, 1967, p. 59.
28. Eissfeldt, 1940/41, p. 198.
29. Noth, 1930, pp. 168f. Nor does the term *'ēdāh* (Jdg. 20.1) necessarily mean that the gathering at Mizpah was a cultic one. Cf. its use in Nu. 20.11, 29; 1 Kg. 12.20; Ps. 106.17f.; and cf. J. Gray, 1967, p. 381.
30. Some scholars have interpreted the chapter on the assumption that such concerted action was impossible in the period of the judges; e.g. Driver, 1892, pp. 159f.; G.W. Anderson, 1959, p. 69.
31. Noth, 1930, pp. 168f.
32. *Ibid.*, p. 170.
33. G.W. Anderson, 1959, p. 69.

34. Other suggestions are those of Eissfeldt, 1965, p. 267, who saw the hand of P in Jdg. 19-21; and Moore, pp. 405ff., who proposed a contemporary of the Chronicler. Neither gives a specific reason why these should have invented an anti-Benjamite narrative.
35. Cf. Driver, 1892, pp. 160f.; de Vaux, 1978, p. 708.
36. E.g., de Geus, pp. 196f.; de Vaux, 1978, pp. 708f.
37. They have been taken as such, within the framework of the amphictyony theory (Kraus, 1966b, p. 174).
38. Cf. Mayes, 1973, p. 160; de Vaux, 1978, pp. 708f.
39. Josh. 18.1; 19.51; Ps 78.60. Haran has opposed the view that the Tent of Meeting tradition in 1 Sam. 1 is incompatible with the *hêkāl* tradition, believing the sanctuary at Shiloh may well have been described as either, and postulating an analogy between it and P's tabernacle (1969, p. 266; 1960, p. 64).
40. E.g. Smend, p. 70. Cf. de Geus, pp. 195ff.
41. Cf. Mauchline, p. 54; Hertzberg, p. 39; McKane, 1963, pp. 41f.
42. Hertzberg, p. 39; Mauchline, p. 56.
43. McKane, 1963, p. 42; Mauchline, pp. 55f.
44. Mauchline, p. 55.
45. Smend's attempt to do so omits to take account of 1 Sam. 2.27-36 (p. 70). Bächli, on the other hand, can say: 'That Shiloh attained and enjoyed central significance for all Israel can be considered assured' (1977, p. 119).
46. Noth, 1971, p. 134. Noth hardly referred to Josh. 22 in the construction of his amphictyony theory.
47. Soggin, p. 215.
48. Möhlenbrink, pp. 246f.
49. Soggin, p. 214.
50. Soggin thought a deuteronomist would not want to elevate a sanctuary other than Jerusalem. This begs the question, of course, whether deuteronomic theology is actually so closely tied to Jerusalem.
51. This point was made by Möhlenbrink, who thought that only the narrowing down of the original concern to the particular question of sacrifices was due to deuteronomic interests.
52. Kraus, 1966b, pp. 181ff.
53. Cf. Clements, 1965b, p. 93.
54. G.W. Anderson, 1970, p. 149.
55. Kraus, 1966b, pp. 141, 198ff.; Dumermuth, p. 63; Hulst, pp. 33f.
56. As noted by Clements, 1965b, p. 93. Cf. Nicholson, 1963, p. 383.
57. Cf. e.g. Mayes, 1979, p. 63.
58. Welch, 1924, p. 48.
59. Cf. e.g. Dt. 23.17; and Oestreicher, pp. 246ff., who took the same view.
60. Welch, 1924, pp. 57ff.
61. E.g. Driver, 1895, p. 203; von Rad, 1966a, p. 115.
62. Dt. 33.19 also presupposes more than one altar. But this context may

not be directly relevant, as ch. 33 is usually thought to be a long interpolation into Deuteronomy (cf. Mayes, 1979, p. 396).

63. This point has been made by G.J. Wenham, 1971, pp. 114f. Elsewhere he has shown that Dt. 27 is an integral part of the book (1970, pp. 206ff.).

64. E.g. Driver, 1895, p. 295.

65. Cf. Wenham, 1971, pp. 114f.

66. See above, p. 11ff.

67. In 21.5 the presence of the chosen priest of Yahweh may have the function of bringing the element of Yahweh's choice into a cultic or semi-cultic procedure which does not happen at 'the place which the Lord shall choose'.

68. Above, p. 19; and cf. ch. 7.

69. Von Rad, 1929, p. 50.

70. See e.g. Seitz, pp. 212ff.

71. Other occurrences of *bô'* with *hammāqôm* are at 1.20, 37f.; 9.5; 11.5; 29.6.

72. *Bô'* is often coupled, for example, with *yāraš*, to inherit (4.1, 5; 6.18; 7.1; 8.1; etc.).

73. E.g. 4.38; 6.10, 23; 7.1, 26; etc.

74. The single exception is at 7.26.

75. *Bô'* is found in the hiphil at 12.6, 11; 21.12; 23.19; 26.2, 9, 10. The exception referred to is 26.9.

76. While the *bô'—māqôm* combination *typically* appears in chs 12-26 in the context of the altar-law, this is not exclusively the case. The usage that we have noted in chs 1-11 occurs sometimes here—but only to re-inforce the contrast; cf. n. 77.

77. 26.1-3 has four instances of the verb *bô'*, all in the qal, but producing a chiastic arrangement as follows: Yahweh's action—worshipper's response—worshipper's response—Yahweh's action. 26.9f. contrasts two hiphil forms, with Yahweh and the worshipper alternately as subject. 26.9 also has a direct contrast between *hammāqôm* in the usage we saw in chs 1-11 (now referring to the land itself, and not merely a point on the verge of it), and *hammāqôm* as we meet it in the altar-law.

The relation of the altar-law vocabulary to that of chs 1-11 may also be illustrated by the contrast between 'you shall *seek*' (*tidr^{e}šû*, 12.5) and 'the LORD goes before you to *seek* a place' (*lātûr*, 1.33). Yahweh also appears as the subject of *dāraš*, though with a slightly different connotation, in 11.2.

78. *Lipnê Yhwh* occurs four times in chs 1-11 and *lipnêkem*, etc., 28 times.

79. Cf. e.g. 1.30, 33; 2.33.

80. A full account of Deuteronomy's altar-law would require some attention to its use of the idea of the name of Yahweh. I have addressed the subject of Deuteronomy's name-theology elsewhere (McConville, 1980).

81. *Pace* Mayes, 1979, p. 54. It must also be doubted whether, as he believes, 'the literary criticism of Deuteronomy must in the first instance

proceed quite independently of the treaties' (p. 34).

82. Cf. Barton, pp. 44, 59ff.; Eichrodt, 1967, p. 373.

83. We shall see in the following chapter that the analogy between 7.1-26 and 12.1-31 is an extended and detailed one.

Notes to Chapter 3

1. Steuernagel, p. 42. He had already traced separate singular and plural hands through chs. 5-11.

2. *Ibid.*, pp. 43ff. V. 1 he saw as a superscription to all the laws in ch. 12; vv. 29-31, on the other hand, provided an introduction to the subject-matter of ch. 13.

3. *Ibid.*, pp. Iff.; see especially p. VIII.

4. *Ibid.*, p. 48.

5. Bertholet, p. xix; Hölscher, pp. 176ff.

6. Horst, p. 3.

7. *Ibid.*, p. 1.

8. *Ibid.*, p. 13.

9. Merendino is dependent upon it for his general approach. He, however, finds the original stratum in vv. 14, 17f. (not vv. 26f., as Horst) and traces five stages of development within vv. 13-27 (pp. 42ff.).

10. Cf. von Rad, 1966a, p. 89.

11. See e.g. G.A. Smith, pp. 165f.; Steuernagel, p. 45.

12. Wellhausen, 1885, pp. 71f.; Robertson-Smith, p. 283; cf. Elliger, p. 226. Maag explained the readiness of Israel to accept such a revolutionary law in the seventh century by saying that her nomadic past, to which the equation of slaughter and sacrifice particularly belonged, was now long forgotten (pp. 15ff.).

13. Cf. e.g. Noth, 1965b, pp. 129f.; Driver, 1895, p. 146.

14. Elliger, pp. 218ff.; Cholewinski, pp. 153ff., especially pp. 171ff.

15. Noth, 1965b, pp. 129f.

16. Driver, 1895, p. 146.

17. Mauchline, p. 119, and Hertzberg, p. 116, suggest that the original stone was incorporated into the altar.

18. Budde, 1902, p. 100.

19. *Ibid.* With minor variations on Budde's line, Driver, 1913, p. 116, Mauchline, p. 119, Hertzberg, p. 116, and Stoebe, p. 272, all agree that the stone was an altar. Mauchline admits that the stone and the second altar may have remained separate, however.

20. See Hertzberg, p. 116; Stoebe, p. 272.

21. There has been some dissent from Budde's view. Ehrlich denied that Saul's act was a sacrifice (III, p. 214).

22. 1 Sam. 6.14 differs from this passage in that it is expressly said that a sacrifice (a burnt-offering) is made (contra Hertzberg, p. 116).

23. Budde, 1902, p. 99; cf. Driver, 1913, Goldman, McKane, 1963, *ad loc.*

24. Budde, 1902, p. 99; cf. Mauchline, p. 119, who cites Dt. 12.15f., 20-25. Mauchline also refers to Lev. 17.11 for the prohibition of blood-consumption.

25. Stoebe, p. 272. Hertzberg also thinks the offence is not against Gen. 9.4, because a different preposition is used with 'blood' in that place. He nevertheless maintains an interpretation of the Samuel passage which treats the offence as sacrificial, without reference to Lev. 19.26, which has a real linguistic analogy with 1 Sam. 14.32 (the preposition *'al*), and which is not in a sacrificial context (pp. 115f.).

26. Contrast Lev. 3.7, which *is* in a sacrificial context, but which specifies a prohibition of fat as well as blood.

27. Stoebe, p. 272.

28. It is the theme of food and hunger which unites these verses with the preceding vv. 24-30, and those which follow, vv. 36-45, through Jonathan's offence of eating honey (v. 27).

29. Cf. Grintz, pp. 82f.

30. Grintz, p. 93.

31. There is possible support for the view that the practice of pouring blood on the ground, rather than sprinkling on an altar, was known in early Israel, in 2 Sam. 23.16f. David's mighty men have risked their lives to bring David water from the well at Bethlehem, which is surrounded by Philistines. David calls the water 'the blood of the men who went at the risk of their lives', and he 'poured it out to the LORD'. Cf. Christ, pp. 135f. For attempts to explain the psychology of blood-prohibition, see McCarthy, 1969, and Grintz.

32. Noth, 1965b, p. 130.

33. *Ibid.* Jer. 39.9f. leaves an impression of such desolation that it must be doubtful whether any cult carried on at all. Cf. Jer. 41.4ff., and Cody, pp. 143ff.; Bright, 1972, pp. 344f.

34. Maag gives indirect support for this view. While he maintains the traditional critical view of the date of Deuteronomy and the introduction of profane slaughter, he argues nonetheless that the psychological conditions were well established by the time of Josiah which would allow profane slaughter to be introduced. By the time of the monarchy, he argues, the fear of spilled blood was a thing of Israel's nomadic past.

35. These have been the interpretation of 1 Sam. 14.32ff. and, in Noth's case, his difficulty in believing that 'the present directions can possibly go back to a primitive time when Israel, or a certain part of the later Israel, before their settlement in the promised land, were once assembled round a single holy place' (1965b, p. 129).

36. That laws of Leviticus can sometimes be supposed to antedate their counterparts in Deuteronomy has been shown by Moran in relation to

Lev. 11 and Dt. 14.

37. Elliger, p. 226. Milgrom also thinks Lev. 17.3f. condemns profane slaughter as murder (1971, p. 154). He believes, however, that Deuteronomy and P are in agreement on their blood-theology (*ibid.*, pp. 149, 152; citing Dt. 12.15f., 23ff.).

38. H. Graf Reventlow believes that a kernel of Lev. 17 (viz. vv. 3, 4a, 4c, as well as 8f., 10, 13) is to be traced to the desert itself (1961, p. 40). Cross's postulation of a parallel between the Tent of Meeting and the tent of EL in the Ugaritic texts may support this by providing an alternative to seeing the forms as a late Israelite figment (1947). Others have seen evidence of a desert location in the term *laśśe'îrîm*, 'for the satyrs'; e.g. Gispen, p. 356.

39. Welch went so far as to say that profane slaughter would have been necessary from the moment of entry into the land of Canaan (1924, p. 51).

40. Notably by Rendtorff, 1967. For the sake of brevity and clarity the following discussion represents an abridgement—and is based on the results—of a more detailed investigation of the sacrificial vocabulary of Dt. 12, in which Rendtorff's attempt to trace the historical development of sacrifice by a study of variations in terminology was rejected, mainly because of a failure to take adequate account of the purposes of different contexts, and the effect which purpose could have upon terminology. Publication of this discussion must await another occasion.

41. See in this connection the discussion later in the present chapter.

42. Von Rad, 1966a, takes the list of sacrifices in vv. 6, 11, 14, 17 to refer simply to 'all of them', in a rhetorical way. Cf. Carmichael, p. 36: 'The considerable variation in the naming of the offerings is best explained as a loose attempt in each case to embrace every possible offering'.

43. Rendtorff, 1967, pp. 156f., cf. pp. 130f., 145f. According to Rendtorff, the blood-pouring in the original *zebaḥ*—ritual was designed to remove it from the cultic realm.

44. Cf. Lev. 4.7.

45. Cf. above, pp. 16f.

46. Carmichael, p. 37. This is not to say that the author of Deuteronomy was incompetent at what he was in fact doing. Carmichael describes his style as 'the enumerative language of the teacher' (*ibid.*).

47. Welch, 1924, pp. 51f.

48. Von Rad, 1966a, p. 91.

49. Hulst, pp. 29ff.

50. Wenham, 1970, pp. 113f., 118; cf. Welch, 1924, pp. 24, 57f.

51. Von Rad, 1966a, p. 92. Cf. Buis-Leclercq, pp. 105f.; Rennes, p. 68.

52. Von Rad, 1966a, pp. 92f.

53. *Ibid.*, p. 93.

54. See above, pp. 33ff.

55. Rennes, p. 68, pointed out the analogy between the opening and

closing sections of each chapter, but without seeing the extent of the relationship as set out above.

Notes to Chapter 4

1. Driver, 1895, p. 169.
2. Cf. Craigie, 1976, p. 233; Danby, p. 73.
3. E.g. Hengstenberg, II, p. 336.
4. Wellhausen, 1885, pp. 156f.
5. *Ibid.*, pp. 158f. The chronology thus established by Wellhausen was quickly taken up by commentators. Cf. Bertholet, pp. 46f.; Driver, 1895, pp. 171f.; G.A. Smith, pp. 196f. All of these, furthermore, assume that Deuteronomy's tithe-law cannot know those of P, on the grounds that it is in conflict with them.
6. Eissfeldt, 1917, p. 40.
7. He sees the third-year tithe as a secularization of the normal tithe, and the use of *qōdeš* in 26.13 as a mere relic. Yet it remains an indicator of the character of the normal tithe in Deuteronomy (pp. 54f.). In seeing the tithe as essentially a tax, Eissfeldt had support from W. Robertson Smith, pp. 245ff., who thought it was originally a royal tax. Cf. also Weinfeld, 1971, p. 1157, and Milgrom, 1976, p. 57.
8. Eissfeldt, 1917, p. 40. He is followed by Horst, pp. 51ff.; de Vaux, 1961, pp. 381f.; Hulst, p. 54; Eichrodt, 1961, p. 153n.
9. Eissfeldt, 1917, pp. 44f.
10. Our acceptance of Eissfeldt's general approach does not imply an acceptance of his detailed reasoning. It is doubtful whether, as he argues, there is evidence of the tithe in Dt. 18.1ff. among the dues payable to the clergy (1917, p. 40). It is also inherently unlikely that a *new* stress on rejoicing in the offerings should be attributed to an attempt to placate religious conservatives who opposed Josiah's reform (p. 51).
11. Driver discounted the reference of Dt. 10.9 to Nu. 18.20 on precisely this ground (1895, pp. 123f.). But in doing so he fails to take account of the fact that in Nu. 16-18 in general Aaron seems to stand, in some sense, for the whole tribe of Levi. Aaron's name appears on the 'rod of Levi' (17.18, cf. 18.2, 6). As G.B. Gray argues, furthermore, chs 17 and 18 are linked by an antithesis between the tribe of Levi as a whole and the remaining tribes (1903, pp. 218f.).
12. Eissfeldt, 1917, pp. 53ff.
13. Weinfeld, 1971, p. 1160.
14. *Ibid.*, pp. 1160f.
15. Weinfeld, 1972, p. 190.
16. Cf. Driver, 1895, pp. 290f.
17. For Milgrom's fundamental disagreement with Weinfeld on this

question, see *IEJ* 23 (1973), pp. 156-61.

18. Milgrom, 1976, p. 57.

19. *Ibid.*, p. 62.

20. Cf. above, p. 70. Mayes accepts that the whole tithe cannot have been consumed in a meal. In his view, however, the surplus will have gone, not to the Temple, but to the poor (1979, p. 246; cf. p. 226).

21. See e.g. Bertholet, p. 47.

22. Eissfeldt tried, unconvincingly, to demonstrate that the *rê'šît*, 18.4, embraced the tithe (1917, p. 40).

23. Above, p. 71.

24. Cf. Driver, 1895, pp. 217f.

25. Ehrlich thought the word *mimkārāyw* was a form of the noun *makkār*, meaning 'acquaintance' (II, pp. 304f.). In its only other context (2 Kg. 12.6-8) it is also mentioned in relation to money.

26. Perhaps it consisted of Levitical cities. See Greenberg, pp. 136-38; Mazar, 1960, pp. 193-205; Albright, 1953, pp. 121ff.—and further below, Chapter 7.

27. E.g. Job 39.14f.; Prov. 2.17.

28. See above, n. 22.

29. Myers, 1965c, p. 180.

30. Rudolph, p. 180. Cf. de Vaux, 1961, p. 405.

31. In 10.32ff. only the sin-offering, the 'first of the coarse meal' and the shewbread.

32. Viz. the wood-offering and the one-third shekel tax.

33. The tithe-tradition as it is known in Tobit may not have arisen very long after Nehemiah was written. Charles dates Tobit to the last quarter of the third century B.C. (p. 174). Metzger puts it a little later at 190-170 B.C. (p. 31). The practice must still post-date Nehemiah, however, for otherwise the latter would be a strange 'erratic boulder' in the history of Jewish interpretation.

34. Cf. Neh. 12.47.

35. Neh. 12.38 must be considered a more accurate report of the Temple-tithe than 12.44, where the tithe is spoken of only in its character as Temple provision. This may be compared with the reference to the freewill offering in 2 Chr. 31.14. In the Levitical law the freewill offering, as a peace-offering, falls in part to the worshippers (Lev. 7.11-18, especially v. 16). This is ignored in 2 Chr. 31.14.

36. Cf. Myers, 1965c, p. 180.

37. E.g. J.A. Thompson, p. 184; Kline, pp. 87f.; Craigie, 1976, p. 233; Mayes, 1979, p. 246. Cf. also above p. 70.

38. J.A. Thompson, p. 184.

39. *Ibid.*

40. See above, p. 53ff.

41. Lev. 7.14; Nu. 18.8.

42. Lev. 7.16; cf. vv. 28ff.

43. On the specific way in which the tithe law draws on principles laid down in chs 1-11, we differ here from S. Kaufman, pp. 128f., who has some difficulty in making this law fit his theory that the progression of the laws in chs 12-26 matches that of the commands in the Decalogue. He makes it depend on the third of those commands, prohibiting false use of Yahweh's name, but can only do so by reason of 'circumstantial' affinities which it has with the preceding and following material.

44. Douglas, 1966, pp. 41ff., has also argued that the regulations about cleanness and uncleanness in Lev. 11 and Dt. 14 derive from a concept of holiness. Her idea of holiness is one of completeness or wholeness (p. 53). It is not necessary to accept her view of what constitutes holiness, however, to state that holiness does underlie the laws of clean and unclean food. This connection is sufficiently clear from the passages we have quoted.

45. Carmichael hints at a connection on this basis (p. 82). Cf. Kaufman, p. 128, who says: '... the law of tithes shares with the preceding section a concern with foodstuffs'.

46. Viz. tithe, firstlings, feasts. Dt. 12 dealt in general with the totality of sacrificial dues.

47. This is also normal in Lev. 11.

48. The figure might be increased to four if *wa'ᵃkālāh* were counted (v. 21). Since the object is here contained in the verbal form, however, it is probably in a category of its own.

49. In Lev. 11.40 we find *wᵉhā'ōkēl minniblātāh*. But since this is a participle, the only one in the chapter, it too is in a separate category.

50. The apparently positive commands in vv. 3-20 are merely permissive or concessive.

51. The extent to which the giving of the land is patterned on that of Yahweh is indicated by details in vv. 6, 14. In v. 6 the giving of God is contrasted with that of Egypt. In v. 14 Israel's giving to God is set against her giving to 'the dead'. The two contrasts may be thought to correspond to each other.

52. Above, pp. 14ff.

53. Brueggemann, p. 54.

Notes to Chapter 5

1. They are Ex. 13.11-16; 22.29f.; 34.19ff. (JE); Ex. 13.2; Lev. 27.26f.; Nu. 18.15-18 (P); and Dt. 15.19-23.

2. Keil, 1973 (III), pp. 357f.

3. Cf. above, p. 19. This tendency will be elaborated in Chapter 7.

4. Steuernagel, p. 58. Cf. Bertholet, p. 49.

5. Horst, pp. 79f.

6. Von Rad, 1966a, p. 108.
7. Weinfeld, 1972, p. 215.
8. *Ibid.*
9. *Ibid.*, p. 216.
10. Merendino, p. 116.
11. *Ibid.*
12. *Ibid.*, p. 118.
13. *Ibid.*, p. 124.
14. *Ibid.*, p. 123.
15. *Ibid.*
16. Cf. e.g. Lohfink, 1963b, p. 182.
17. He does think it important that the firstlings-law has been kept next to that on Passover, since firstlings were probably offered on that occasion (*ibid.*, p. 123).
18. Bächli sees this as one aspect of Deuteronomy's presentation of Israel as an extended family (*Grossfamilie*) (1962, pp. 119, 121ff.).
19. Cf. again Weinfeld, 1972, p. 216.
20. The contrast is reinforced by a chiastic structure in the Hebrew: . . . *lō' yiggōś 'et rē'ēhû . . . 'et hannokrî tiggōś* (vv. 3f.).
21. Lev. 22.17ff. lays it down in principle that no blemished animals of any sort may come to the altar. However this does not explain the specific application to firstlings that only occurs here.
22. Douglas, 1971, pp. 72-74.
23. He refers to Gen. 1.29f.; 2.18-20; Ex. 20.10; Dt. 28.4; Lev. 26.22; Dt. 28.18, 50-57 (1981, pp. 10f.); cf. *idem*, 1979, pp. 18ff.
24. *Idem*, 1981, p. 11.
25. Clean animals correspond to Israel in general. And just as among clean animals there were a few types which could be sacrificed, there was within Israel a group of men who could perform sacrifices, viz. priests (Wenham, *ibid.*).
26. Above, pp. 52f.
27. *'ābad* (vv. 12, 18, 19); *'ebed* (vv. 15, 17); *pādah* (v. 15); *šāmaṭ/šᵉmiṭṭāh* (vv. 1f., 9); *šālaḥ ḥopšî* (vv. 12, 13, 18).
28. Cf. AV, RV, NEB; also Craigie, 1976, p. 235.
29. Cf. again Wenham, 1981, p. 10.
30. Viz. the NAB, when it translates: '. . . you shall not work the firstlings of your flock'.
31. Apart from Lev. 25.39 and Dt. 15.19, only at Dt. 21.4 where the syntax may be similar. In Nu. 4.23, 37, 41, Ex. 7.16 the preposition *bᵉ* is merely locative.
32. E.g. Gen. 2.5; Ex. 1.14; 20.9.
33. See above, pp. 15f.
34. The use of *taqdîš* brings out the parallel beteen Israel's holiness and that of the firstlings.

35. Mayes, 1979, p. 253.
36. Cf. Driver, 1895, p. 181.

Notes to Chapter 6

1. For the source-divisions see Driver, 1895, p. 190.
2. Wellhausen, 1885, pp. 85ff., 99f. He argues that the term *ḥag happesaḥ* in Ex. 34.25 is not original, being a corruption of *ḥaggî* in the parallel Ex. 23.18. Cf. W.R. Smith, pp. 464f.; Steuernagel, p. 59; Guthe, pp. 221ff.
3. Wellhausen, 1885, p. 103. On the deuteronomic unification of the feasts see also von Rad, 1966a, p. 111.
4. Cf. again Driver's analysis of the sources, n. 1, and Haran, 1978, p. 323. The fact that JE refers only to lambs also makes the link between Passover and firstlings in general untenable.
5. Driver, 1895, p. 188.
6. E.g. Bertholet, p. 50.
7. See Driver, 1895, p. 190; Mayes, 1979, p. 254.
8. For this analysis see Steuernagel, p. 58. Mayes has adopted a variation of it, finding Massot in laʿb, 3aβ-4a, and regarding v. 8 as a late addition. Opinions have varied as to which was the underlying law and which was added later.
9. Mayes, pp. 254, 358. He refers to Ex. 13.4; 23.15. He thinks that the term *lāyᵉlāh* also serves to link Passover and Massot, p. 258.
10. *Ibid.*, p. 254.
11. E.g. Bertholet, p. 50; cf. Mayes, 1979, p. 258. Others have tried to explain the meaning of *ʿālāyw* differently, in order to avoid the contradiction. Dahood thinks it means 'in His (i.e. Yahweh's) presence' (p. 283). He is followed by Craigie, 1976, p. 242. Dahood claims this meaning is 'as in Ugaritic and also in the Bible'. But neither he nor Craigie brings any evidence to bear. The command in v. 7b '. . . and in the morning you shall turn and go to your tents', has also been held to be in tension with the seven-day duration of the combined feast; cf. Bertholet, p. 51; Halbe, p. 150, n. 14.
12. Bertholet, p. 51. Cf. Weinfeld, 1972, p. 217; Steuernagel, p. 60; von Rad, 1966a, p. 112.
13. The main difficulties of interpretation are in the context of vv. 1-8, on Passover and Massot, but we shall have occasion to refer to the other feasts also.
14. De Vaux, 1961, p. 489; cf. Pedersen, 1934, p. 166; Kraus, 1958, p. 53; Mayes, 1979, p. 256; Haran, 1978, p. 320; Rowley, 1967, pp. 47ff., 88, 117.
15. Cf. de Vaux, 1961, pp. 490f.; Pedersen, 1934, p. 166, *et al.* (cf. n. 14).
16. The arguments outlined under (b) are advanced by de Vaux, 1961, p. 49; cf. Noth, 1965b, pp. 170f. For (a) see von Rad, 1966a, p. 112; Driver, 1911, p. 242.

17. J.B. Segal, p. 111. Halbe too has seen that the historical motivation has set Massot off from the other feasts (p. 325); cf. Mayes, 1979, p. 255.

18. Halbe, pp. 326ff.

19. Dalman, III, p. 333; J.B. Segal, p. 111. Cf. Mayes, 1979, p. 255.

20. Dalman, IV, p. 29; Halbe, pp. 339f. Cf. e.g. de Vaux, 1961, p. 489.

21. Buis—Leclercq refer to this passage in support of the general point (p. 123).

22. Cf. Noth, 1971, p. 39.

23. Noth, *ibid.*; Halbe, pp. 340f. Kraus, on the other hand, has seen in Josh. 5.10-12 evidence of a combined feast at the amphictyonic sanctuary of Gilgal (1966b, p. 51; cf. pp. 162f.). It is by no means clear, however, that the passage merely reflects the activities of that sanctuary. In Noth's view the mention of unleavened bread is simply connected with the historical circumstances of Israel's arrival in Canaan.

24. E.g. Dillmann, 1880, p. 249; Driver, 1911, p. 245; Cassuto, 1967, p. 304. Contrast, however, Ehrlich, I, p. 360; Engnell, p. 186.

25. See R.E. Clements, 1972, p. 153.

26. Michaeli, p. 288.

27. Eichrodt, 1961, p. 122, considers both the terms *ḥag hammaṣṣôt* (Ex. 23.15) and *ḥag happesaḥ* (Ex. 34.25) to designate a combined Passover and Massot festival, the terminology varying according to location (i.e. Passover in the north and Massot in Judah). Cf. Haran, 1978, p. 342, who believes that all the biblical sources present Passover and Massot as a combined feast.

28. E.g. Mayes, 1979, p. 257.

29. Driver, 1911, p. 242.

30. L. Bauer insisted strongly that this was the case (p. 794).

31. Driver, 1911, p. 242. So too McNeile, p. 142, who says that 'there is nothing in E to which "as I commanded thee" can refer'. While he rightly rejects the expedient of seeing the words as a reference to oral Mosaic teaching (p. 142n.), he does not consider the possibility that the words might refer to another source.

32. Noth, 1972, p. 191.

33. Many commentators simply pass over the problem in silence, e.g. Childs, Hyatt, Cassuto, Michaeli.

34. Commentators generally take *mô'ēd ṣē'ṯᵉkā mimmiṣrāyim* in Dt. 16.6 to refer to the time of day when Israel came out of Egypt (e.g. Driver, 1895, p. 193), though some, e.g. Reider, p. 161, allow the possibility that it might refer to the date. The non-technical idiom of Deuteronomy favours the former. The suggestion that the word *hōdeš* refers to the New Moon and therefore specifies the date (Elhorst, p. 138; Auerbach, pp. 7ff.) should be rejected for similar reasons.

35. Cf. Buis—Leclercq: '... as always [sc. in Deuteronomy], the ritual is considered to be known from elsewhere' (p. 124).

36. De Vaux, 1961, pp. 484ff. Cf. Auerbach, p. 17, who thinks P, accepting the failure of Deuteronomy's centralizing measures, returned the Passover

to the local sanctuaries. (This is in curious contrast to the view that P was stricter than Deuteronomy on profane slaughter!)

37. The book of Jubilees takes Dt. 16.5 in this way, i.e. as evidence that the Passover was always celebrated 'at the sanctuary of the Lord'; Jubilees 16–21.

38. Haran, 1978, pp. 347f.

39. Some scholars hold that 2 Kg. 23.22 means that no such Passover as Josiah's had ever taken place in all Israel's history (e.g. Wellhausen, 1885, p. 93; Welch, 1927, p. 25; Nicolsky, 1927, p. 180). The interpretation advocated here is supported, however, by Kraus, 1958, p. 48; Halbe, p. 341; J.B. Segal, pp. 5f., as well as de Vaux; see n. 36.

40. Cf. Buis—Leclercq, p. 125.

41. Cf. de Vaux, 1961, pp. 485f.; Bertholet, p. 51.

42. E.g. Jer. 4.20; 1 Sam. 4.10; 2 Sam. 20.1, etc.

43. E.g. Pedersen, 1934, p. 175; J.B. Segal, p. 210; Mayes, 1979, p. 259; Bächli, 1962, p. 96.

44. The question whether Passover might have been celebrated in earlier times at any of numerous sanctuaries does not really arise. The contrast here, as in other cultic laws, is between 'the place' and 'your towns', not other places of worship. And in this case 2 Kg. 23.22 provides particular evidence of a properly centralized feast for all Israel.

45. The names differ slightly. Ex. 23.16 has 'harvest' (*haqqāṣîr*), where Deuteronomy has Weeks (*šābu'ôt*), 16.10; and 'Ingathering' (*hā'āsip*) where Deuteronomy has Booths (*hassukkôt*), 16.13. Lev. 23 uses *haqqāṣîr* (v. 10) as Ex. 23, and *hassukkôt* as Deuteronomy. The different names do not signify different feasts, however.

46. E.g. Driver, 1895, p. 196.

47. See further below.

48. Bertholet, p. 52.

49. Weinfeld, 1972, pp. 219ff.

50. Cf. Bertholet, p. 52; Mayes, 1979, p. 261.

51. Above, pp. 48ff.

52. Wolff, 1974a, pp. 156, 215; Mayes, 1969b, pp. 167f.

53. Halbe, p. 153.

54. Halbe's pattern is strengthened by a feature which he has not noticed, viz. that in A-A^2, B-B^2, D-D^2, the individual parts of the phrases in question appear in reverse order in the second element. (For the deuteronomic habit see our analysis of Dt. 12, appendix to Chapter 3.) Thus in v. 1 (A) we read: *hôṣî'ᵃkā YHWH 'ᵉlōhêkā mimmiṣrayim lāyᵉlāh* where the time statement (*layᵉlah*) comes last. Verse 6 (A^2) has in contrast *bā'āreb kᵉbô' haššemeš mô'ēd ṣētᵉkā mimmiṣrayim* where the time statement precedes the reference to the exodus. In B-B^2 the chiasmus involves the terms 'at the place' and 'sacrifice'; and in C-C^2, '7 days' and 'no leaven'.

55. It is interesting to notice that the NT can sometimes present Passover

and Massot as a unity, and at other times recognize that, while they are celebrated together, they have distinct identities. In Luke 22.1 we read: Ἤγγιζεν δὲ ἡ ἑορτὴ τῶν ἀζύμων ἡ λεγομένη πάσχα where the two seem to be fused, one feast called interchangeably by two separate names. In Mark 14.1, however, we find τὸ πάσχα καὶ τὰ ἄζυμα, where the separateness of the two seems to be recognized. This shows the danger of seeing too many implications for historical development in terminological variation.

56. The only other is the firstlings-law, 15.19-23, which we found nevetheless to be influenced by the emphasis on the land.

57. See further below on the sabbath theme in Dt. 16.1-8, and the integrity of v. 8 in the passage. It should be said that the term *ʿaṣeret* is not essentially incompatible with rejoicing, as Neh. 8.17f., and 2 Chr. 7.9f. probably show.

58. Halbe, p. 340.

59. *Ibid.*, pp. 340ff.

60. Keil, 1973a (III), pp. 374f.

61. Pedersen, 1934, pp. 162f.; Hulst, p. 41.

62. Cf. also Lev. 23.8; Nu. 28.18ff.

63. On the latter point cf. our remarks on terminology and history in connection with profane slaughter, pp. 53f.

64. Cf. Driver, 1895, p. 194; and Gen. 40.10; Joel 4.13.

65. E.g. Bertholet, p. 51; Mayes, 1979, p. 254.

66. Driver, 1895, p. 194; Steuernagel, p. 60.

67. Haran, 1978, p. 338.

68. This point has been made by Carmichael, pp. 93f.

69. This verbal affinity is noticed by Driver, 1895, p. 191.

70. Carmichael, p. 94.

71. Halbe, pp. 148f., 153.

72. Carmichael, pp. 91ff. He sees this especially in the command to the worshippers to return to their tents (v. 7), adducing Josh. 22.1ff. as a parallel, in which a similar command (v. 4) is explicitly associated with rest. Carmichael thinks, however, that the whole character of Deuteronomy's law of Passover-Massot can be explained in terms of rest, since both components 'are re-enactments of the disturbance, unrest and homelessness of Israel in Egypt and the exodus from there' (p. 92). This is perhaps too imaginative, and misses the real significance of the combination of the feasts, outlined above.

73. Bertholet, p. 51.

74. Cf. above, p. 35.

75. Carmichael, p. 247.

76. This parallel has been pointed out by Weinfeld, 1972, p. 33; Carmichael, pp. 247ff. Here too Carmichael has tended to overstate the connection. His argument that 'the adversity that has befallen us' (Nu. 20.14) refers exclusively to Jacob's hardships endured under Laban (in his attempt to establish a close connection between this verse and Dt. 26.5, 'A wandering

Aramean was my father') is unconvincing (pp. 249f.). The adversity referred to is more naturally taken as the experience in Egypt.

Notes to Chapter 7

1. Kaufmann, 1961, p. 193.
2. Wellhausen, 1885, pp. 121-151; the following discussion represents a resumé of the arguments advanced there.
3. E.g., Wellhausen's denial of the separation of the profane and the holy in early Israel (1885, p. 76); the alleged non-levitical ancestry of Zadok, etc.
4. Gunneweg, pp. 71ff.
5. Cody, pp. 33ff., 55ff.
6. Nielsen, pp. 280ff. He points out that 'Levites' appear as priests in diverse early traditions, viz. Jdg. 17–21; Dt. 27.14; 33.8-11. Nielsen has general support from M. Haran, 1978, pp. 73ff.; see also his bibliographical notes *ad loc.*
7. Gunneweg, pp. 28ff.
8. *Ibid.*, p. 130. Nielsen's view of Dt. 18.1-8 is very like Gunneweg's, pp. 267f.
9. Cody, pp. 130f.
10. Not all agree that 2 Kg. 23.9 relates this failure. Cody believes it does (p. 135); but Gunneweg denies that the priests of the high places are the same as the Levites of Deuteronomy, because of the latter's opposition to the high places (pp. 121ff.).
11. Many other works can be added to the three we have looked at in some detail. Horst, Hulst, Maarsingh and Bächli (1962) accept the basic position outlined; so also most critical commentaries. On the relation of Dt. 18.1-8, 2 Kg. 23.9 and Ezek. 44.10ff., see McConville, 1983.
12. Cf. Gunneweg, p. 135, on Ezek. 44.15.
13. Cross, 1973, pp. 55ff., against Rowley, 1939.
14. Avigad.
15. Cross, p. 214; Haran, 1978, p. 88.
16. Two further questions arise in relation to the status of Zadok, which cannot be fully dealt with here, but may be mentioned in passing. First, the information in 2 Sam. 8.17, which says that Zadok was the son of Ahitub, appears to conflict with 1 Sam. 22.20 on the question of the relation between Abiathar and Abimelech. (This led Wellhausen to restore 2 Sam. 8.17 to 'Abiathar, son of Abimelech, son of Ahitub, and Zadok'). The difficulty is compounded by the fact that in 2 Sam. 8.17 Ahimelech is David's priest, with Zadok, while in 1 Kg. 2.26f. Abiathar is said to have held that office. The Peshitta solved the problem by reversing the order of the names in 2 Sam. 8.17. The reading is clearly a harmonization, however. Another possibility is to suppose that Ahimelech, as well as having a father called

Abiathar, had a son of the same name. Cross has noted the widespread use of papponymy in priestly families in post-exilic times (1969, pp. 55ff.). For the recurrence of names in OT genealogies, cf. 1 Chr. 5.27ff. (6.1ff. EVV), and Keil, 1973b, pp. 365f. On the question whether Ahimelech or Abiathar was priest, it may be supposed that the latter succeeded the former to the office.

Secondly, 1 Sam. 2.27-36 has been interpreted as Zadokite-Levite polemic, e.g. by Cody, p. 67. However McKane, 1963, pp. 41ff., and Tsevat, p. 201 and *passim*, have argued that the polemic is merely against the house of Eli—a view which probably best explains the term *bêt^{e}kā* (vv. 31ff.), and the fact that judgment actually falls on Hophni and Phinehas, Eli's own sons (v. 34).

17. Cross, 1973, p. 208.

18. Haran, 1978, p. 65. He also says that references to 'houses of God' in JE would be anachronistic (*ibid.*).

19. *Ibid.*, pp. 67f.

20. The source-history of Ex. 32 is a matter of considerable debate. The verses in question form part of Eissfeldt's L source (1934, p. 217 [ET, p. 195]). Cf. Fohrer, p. 161, who allocates vv. 25-29 specifically to L(N). The verses come in any case from some early source.

21. On the provenance of these verses from E see S.R. Driver, 1892, p. 29. Once again Eissfeldt and Fohrer assign them to L(N).

22. Haran, 1978, pp. 68f.

23. *Ibid.*, p. 68.

24. It should be said that despite Haran's insistence that there were no non-Levitical priests in Israel before the exile, he follows the Wellhausenian reconstruction of the history of the clergy on many important points, e.g. on the interpretation of Dt. 18.1-8, 1978, p. 100; cf. pp. vif.

25. Hertzberg, p. 343, and Ehrlich, III, p. 313, are reluctant to oppose it. McKane, 1963, p. 252, also says it could be original. Cf. also Noth, 1968a, p. 35.

26. See Zimmerli, 1979^{2}, p. 1028. I have argued elsewhere that v. 46b should not in fact be regarded as a gloss (McConville, 1983).

27. Albright, 1953, p. 125; Gray, 1957, pp. 155ff. Gray thinks the Ugaritic evidence suggests 'a cultic establishment such as that outlined in Chronicles', p. 155.

28. E.g. 'consecrated persons' (*qdšm*), singers (*šrm*), makers of vestments (*yṣḥm*) and sculptors (*pslm*) (*ibid.*, pp. 156ff.).

29. See especially J. Renger.

30. See J. Gray, 1964, pp. 734f.; Cody, p. 135.

31. Gunneweg, pp. 119ff.; Haran, 1978, p. 100.

32. The Levite of Jdg. 19 seems to have been fairly well off, having a house and a concubine. 1 Kg. 2.26. There is no reason to assume, with Noth, that he is therefore somehow exceptional (1968a, p. 35).

33. As Gunneweg, pp. 128ff.; Nielsen, pp. 267f.

34. Albright, 1953, pp. 121ff.

35. Alt, 1953a, pp. 295ff.
36. Cf. B. Mazar, 1960; Noth, 1971, pp. 131ff. Mazar dates the list in Solomon's reign; Noth follows Alt. Both agree that the list bears a relation to actual historical conditions at some time.
37. Cf. Haran, 1978, pp. 87f.
38. This is not to say that the scholars we have mentioned think the list entirely historical. Most agree that it has Utopian features.
39. Kaufmann, 1953, pp. 40ff.
40. Alt, 1953a; Noth, 1971, pp. 131f.
41. Haran, 1978, pp. 119f. Nob is called *'îr hakkōhᵃnîm* in 1 Sam. 22.19.
42. Wright, 1954, p. 330. Cf. Allis, pp. 185ff.; Abba.
43. Emerton, p. 133.
44. Wright, 1954, pp. 327f.; J.A. Thompson, p. 265.
45. Abba, p. 261. Cf. Orr, p. 163; Allis, p. 186.
46. E.g. J.A. Thompson, pp. 294f.
47. Abba, p. 261.
48. *Ibid.*, p. 259.
49. S.R. Driver, 1895, p. 120.
50. E.g. *bᵉnê yiśrā'ēl* (cf. 1.3); the verb *nāśā'*; see also G.A. Smith, p. lxiv.
51. See above pp. 70f.
52. Milgrom, 1976b, pp. 11f.
53. Milgrom, while he recognized this, considered that Deuteronomy was engaging in polemic against P, and endeavouring to re-instate the Levites in full priestly office (1976b, pp. 11f.). It is our contention that this is not so. But that does not invalidate Milgrom's point about the reference of Dt. 18.2 to Nu. 18.
54. Driver, 1895, pp. 122f., 217; Emerton, p. 132. Cf. Gunneweg, p. 130; Wright, 1954, p. 328.
55. Brinker, p. 96.
56. 2 Chr. 23.6; 31.2; 29.16; cf. Nu. 3.31; Ezra 8.17.
57. *Pace* Driver, 1895, p. 123, there is no clear reference of the verb *'āmad* to the priests as distinct from the Levites. See Neh. 12.44; 1 Chr. 15.16; 2 Chr. 29.25f. The word can in fact be used relatively loosely. In Lev. 9.5 it is used of the whole congregation.
58. Cf. Emerton, p. 132, who thinks this usage analogous to that of Deuteronomy.
59. E.g. J. Gray, 1967, p. 161.
60. I.e. Ex. 29.9; 40.15; Nu. 3.10; 16.10; 18.1, 7; 25.13; Ezra 2.62; Neh. 7.64; 13.29. In 1 Sam. 2.36 the word has a slightly different nuance.
61. So Merendino, pp. 189ff. There is disagreement as to the original extent of the law. Hempel included vv. 6, 8 (pp. 223ff.) while Steuernagel limited it to v. 3 (pp. 67f.).
62. A similar view was taken by Ridderbos, 1951, pp. 17f. Hulst also thought vv. 1-5 extended what was true of the priests to the whole tribe

(p. 58). Cf. Lattey, pp. 288f.

There has been much discussion of the relation of the expressions in v. 1 to each other, viz. 'the levitical priests' and 'the tribe of Levi'. See the debate between Wright, 1954, and Emerton. In my view it is possible, but not necessary, to conclude that the latter term embraces a larger group than the former (with Wright). The terms of 18.1 do not really demonstrate the correctness of any one theory about the priesthood in Deuteronomy.

63. The principle is exactly the same as in Nu. 18. The peculiar phrase, *wᵉnaḥᵃlātô yō'kēlûn*, actually expresses this logical sequence very clearly, in P. In Nu. 18 too, incidentally, the 'no inheritance' formula applies equally to both sections of the levitical tribe (vv. 20,24).

64. Cf. n. 62.

65. E.g. Horst, p. 115; Hulst, p. 61; Gunneweg, p. 120. Gunneweg says: 'Detailed instructions for a concentration of the priesthood in Jerusalem or for the regulating of their dwelling there are not contained in Deuteronomy'.

66. Driver, 1895, p. 217; Hulst, p. 61.

67. See G-K 159 C, bb.

68. Welch, 1912, p. 198; von Rad, 1929, pp. 30f. Von Rad argues further (p. 36) that the *minḥāh*—sacrifice, though omitted in Deuteronomy, must almost certainly have been known to its authors (he cites e.g. 1 Sam. 3.14; 26.19). This is far from the old idea that Deuteronomy could be dated vis-à-vis P by means of its cultic omissions; cf. Bertholet, p. 39; Steuernagel, p. 45.

69. Gunneweg, p. 73.

70. Above, pp. 81, 93; and Bächli, 1962, pp. 121f.

71. Von Rad, 1929, p. 50.

72. *Ibid.* Just in what sense he considers the claims of the priest to be limited he does not say.

73. Bächli, 1962, p. 123.

74. Hulst, pp. 55f.

75. Hulst actually wavers on applying the principle of wholeness to the inner divisions of the Levitical tribe. In the end he accepts the traditional view (i.e. that Deuteronomy is a programme for making Levites into priests), but admits that the best arguments for it (viz. the phrase 'the levitical priests' and a comparison of Dt. 31.9 and 25) are inconclusive (*ibid.*, pp. 61f.).

76. Bächli, 1962, p. 123.

77. Dt. 1.16; 14.21; 24.14.

78. In 10.9 we find the command to 'love the sojourner', on the twin ground that Yahweh loves him and that Israel itself sojourned in Egypt. But this phraseology is less easily definable than, and clearly distinct from, the command 'not to forsake the Levite' (12.19).

79. Cf. Noth, 1971, p. 74.

80. This is not an absolute rule. Nu. 34.2 uses *naḥᵃlāh* to refer to the whole land of Canaan.

81. Gunneweg, p. 128.

82. *Ibid.* Gunneweg applied his assessment only to the earliest of several layers of tradition regarding Levites in Deuteronomy. In other words, the 'ideal figure' is the poor Levite before accession to the priesthood has provided him with a source of income.

Notes to Conclusion

1. Von Rad, 1929, p. 60; cf. Childs, 1979, p. 222.
2. Mayes, 1979, p. 253.
3. A complete account of the source-analysis of chs 1-11 is clearly impossible here. I am following that of Mayes.
4. It is recognized that Deuteronomy cannot be equated in a simple way with any kind of ANE treaty. Wenham coined the term 'Old Testament Covenant Form' (1970); cited in J.A. Thompson, 1974, p. 18.

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INDEXES

INDEX OF BIBLICAL REFERENCES

Genesis
1.29f. 173
2.5 173
2.18-20 173
9.4 45f., 168
19.3 103
40.10 177
49.7 127

Exodus
1.14 173
4.14 130
7.16 173
12.1–13.10 100
12 122
12.1-20 105
12.3 100f.
12.6 100
12.8 99
12.9 101, 117
12.15 99
12.17ff. 106
12.21-27 100, 105
12.21-23 107f.
12.21 101, 109
12.24 109
12.34 114f.
12.39 114f.
13.2 89, 94, 172
13.3-10 105, 115
13.3 106
13.4 106, 174
13.5 115f.
13.6 106, 117
13.11-16 172
13.13 94
20.8 118
20.9 173
20.10 95, 173
20.24f. 29
20.24 44
20.25 29
21.2-11 97
22.25 16
22.29f. 94, 172
22.31 79, 81
23.14 112f.
23.14-18 100, 111
23.14-17 104
23.15 104ff., 174f.
23.16 176
23.18ff. 102
23.18 104f., 174
24.1 131
24.9 131
28–29 125
28.1 145
29.9 180
29.12 53
32 179
32.25-29 179
32.29 130
34 2 104
34.18 105f.
34.18-26 100
34.18ff. 102, 105, 111
34.19 94
34.19ff. 172
34.25 104f., 174f.
38.41 130
40.5 180

Leviticus
1–7 52, 55
1.1-4 94
3.7 168
4.7 53, 169
4.18 53
4.25 53
4.30 53
4.34 53
6.17–7.18 90
6.24ff. 54
7.1ff. 54
7.11-18 171
7.13 104
7.14 171
7.16 53, 172
7.20f. 72
7.28ff. 55, 172
9.5 180
11 80, 169, 172
11.3-20 172
11.21 172
11.39f. 81
11.40 172
11.45 79
17 48-51, 169
17.3-7 48
17.3ff. 43f., 48f., 51, 62, 76
17.3f. 169
17.4 48, 51
17.5 48
17.7 48
17.8f. 169
17.10-14 50
17.10ff. 112
17.10 169
17.11ff. 45f.
17.11 168
17.13 45, 50f., 169
19.26 45f., 168
19.26a 45
21.5 94

Leviticus (cont.)
21.17-21 94
22.8 94
22.17ff. 90, 94, 173
22.19f. 89
22.22ff. 94
22.24 94
23 100, 111
23.4-8 105f.
23.5 100
23.6ff. 102
23.8 119, 177
23.9ff. 102f.
23.10 176
23.15f. 111
23.17ff. 111
23.17 104
23.19 52
23.28ff. 114
23.33 111
23.36 114
23.37 52
23.39ff. 111f., 122
23.40 99
23.43 111
25.23 162
25.36f. 16
25.38-46 97
25.39-55 95
25.39 95, 173
25.46 95
26.22 173
27 76
27.26f. 172
27.26 91
27.30ff. 68f., 72

Numbers
1.50 131
3.3 130
3.5ff. 125
3.10 180
3.31 180
4 141
4.15 131
4.23 173
4.37 173
4.41 173
9.1-14 100
13 120f.
13.29 121
14.40-45 121
16–18 170
16 90, 142
16.10 180
17.18 170
18 70f., 75f., 89f., 97, 139, 145, 180f.
18.1 180
18.2 170
18.6 170
18.7 180
18.8-24 77
18.15 55, 77, 89
18.15-18 88, 172
18.16-18 94
18.17f. 90
18.18 171
18.19 54
18.20 70, 170, 181
18.21 68, 76
18.21ff. 1, 55, 68, 73
18.24 181
18.26 75
20.11 164
20.14 177
20.14-21 121
21.13ff. 141
25.13 180
26.54 150
28.16-31 100
28.18ff. 177
34.2 181
35.1-8 134
35.2 134

Deuteronomy
1–11 18, 33-36, 58f., 61, 166, 172, 182
1–3 3f.
1.1 3
1.4f. 36
1.6f. 36
1.8 35
1.16 19, 181
1.19-40 121
1.20 166
1.26ff. 4
1.28-30 59
1.30 166
1.31 33f., 36, 58
1.31ff. 59
1.32f. 36
1.33 36, 166
1.37f. 166
2.33 166
3.2ff. 4
3.12-20 19
3.12-17 33, 148, 163
3.18 19
3.20 19
4.1-40 5
4.1 166
4.5 166
4.25f. 11
4.37f. 30
4.37-40 79
4.38 166
5–11 3, 7, 167
5 4
5.12 118
5.14 95
5.15 37, 84
6.10ff. 115
6.10f. 11

Deuteronomy (cont.)
6.10 166
6.12 85
6.18 11, 166
6.23 166
6.24f. 14
6.25 162
7 4, 38, 59f., 62f., 65f., 78f.
7.1-26 167
7.1-5 18, 60
7.1ff. 4
7.1 166
7.6-11 60-62
7.6ff. 18, 38, 60, 78
7.6 18f.
7.7f. 30
7.9f. 38
7.11ff. 38
7.11 38
7.12-16 18, 60, 62f.
7.12ff. 62
7.12f. 116
7.12a 4f., 18
7.13ff. 84
7.13 62f., 79
7.14f. 62
7.16 62
7.17-26 60
7.18 84
7.25 60
7.26 166
8.1 11, 166
8.2 85
8.7-10 54
8.11-20 18, 74
8.11 74, 85, 150
8.18 85
9.1-4 18
9.5 166
9.7 59, 84f.
9.26 162
10.6f. 131, 138
10.6 138, 145
10.8f. 124, 139
10.8 71, 138f.
10.9 19, 70f., 139, 141, 149f., 163, 170, 181
10.12ff. 78
10.18 37
11 34, 59
11.2 166
11.5 59, 166
11.8f. 11
11.12 59
11.18-21 11
11.26ff. 59
11.28 59
11.29–12.1 18
11.29ff. 59
11.29 34, 58
12–26 18, 30, 33-35, 58, 61, 120, 166, 172
12–18 160
12 2, 3, 6, 9, 15, 34, 37-44, 47-60, 63-66, 68, 78, 89, 98, 112, 123, 147, 169, 172, 176
12.1 11
12.1-31 167
12.1-12 40, 59
12.1-7 23, 41, 56, 163
12.1-4 59f., 64
12.2-12 40
12.2-7 40, 57
12.2-5 52
12.2-4 61
12.2f. 31
12.2 31
12.4 38, 59
12.5-14 54
12.5-12 59-63
12.5-7 40, 49, 61, 64
12.5f. 34
12.5 28, 31f., 64, 166
12.6 39, 42, 52, 54, 58, 64, 88f., 166, 169
12.7 18, 54
12.8-28 23
12.8-12 40f., 57
12.8-10 64
12.8 49, 57
12.9 119
12.11f. 40, 61, 64
12.11 32, 39, 52, 64f., 166, 169
12.12 38, 124, 136, 141
12.13-31 40
12.13-28 40, 60-62
12.13-27 167
12.13-25 59
12.13-19 40, 56f.
12.13-18 41
12.13f. 61, 65
12.13 57
12.14 28, 167, 169
12.15-25 61f., 64
12.15ff. 45-48, 52, 62f., 72, 90, 93
12.15f. 40, 42-44, 62, 64f., 112, 168f.
12.15 47, 50, 62,

Deuteronomy (cont.)
65
12.16 45-47, 49f., 54, 65
12.17-19 69
12.17f. 39f., 55, 63, 69, 167
12.17 77, 89, 169
12.19 38, 69, 74, 150, 181
12.20-28 40
12.20-25 40f., 62, 168
12.21-25 41
12.21 12, 41, 47, 65
12.22 47, 50
12.23 45f., 54, 65
12.23ff. 49, 50, 169
12.25 62
12.26-28 59, 61
12.26f. 39, 41, 167
12.26b 41
12.27 52-54, 89
12.28 62
12.29–13.1 59f., 64
12.29ff. 52, 167
12.30 60
12.31a 59
13.12 12
13.17 12
14 15, 68, 78, 80, 82, 86, 112, 169, 172
14.1-20 148
14.1f. 18, 78f., 81
14.1 94
14.2 30, 78, 81
14.3-21 79-81
14.3-20 80f.
14.3 80f.
14.21 80f., 94, 181
14.22–25.16 162
14.22-29 55, 68f., 78f., 81, 83, 86
14.22ff. 1, 8, 9, 78f., 147
14.22 75, 92
14.23-27a 92
14.23-26 55
14.23ff. 54
14.23 69, 72, 75, 78-80, 82, 84, 87
14.23a 92
14.23b 86
14.24-27 93
14.24ff. 69, 71, 77, 163
14.24 18, 78
14.25 82
14.26 80, 116
14.27 38, 69, 74, 84, 141, 150
14.28f. 69, 71, 81, 83
14.28 76, 92
14.29 78, 80, 134, 150
15 50, 93-96, 112
15.1-18 15, 92-98, 148
15.1f. 173
15.2f. 93
15.2 96
15.3f. 173
15.3 19, 93, 96
15.4 96
15.6 18
15.7ff. 12
15.7 12, 19, 93
15.9f. 12
15.9 19, 93, 173
15.11 19, 93
15.12ff. 85
15.12 16, 173
15.13f. 97
15.13 173
15.15 37, 173
15.17 173
15.18 16, 173
15.19-23 55, 92-94, 97f., 172, 177
15.19ff. 9, 15, 77, 147
15.19 89, 91, 95f., 173
15.19a 92
15.19b 92, 96
15.20-23 96
15.20ff. 54, 93
15.20 55, 75, 88f.
15.21-23 90
15.22 55
15.22b 50
15.23 50
16 9, 100, 103, 112, 115, 119, 123, 147
16.1-17 15, 92, 99, 101, 122f.
16.1-8 99f., 102, 105, 109, 113, 119, 122, 177
16.1-7 113-15, 118
16.1ff. 54
16.1f. 101
16.1 101, 106, 113, 118-20, 176
16.2 99, 101
16.3f. 101, 174
16.3 84, 101, 109, 113,

Deuteronomy (cont.)
117f.
16.5ff. 12, 101
16.5 13, 107, 176
16.6 99, 106f., 175f.
16.7 99, 109
16.7a 114
16.7b 174
16.8 101, 109, 113f., 118f., 174
16.9-17 110
16.9 102f., 111
16.10 13, 18, 111, 176
16.10f. 99
16.11 69, 99, 111
16.12 85, 111
16.13-15 112
16.13 176
16.14f. 99
16.14 69, 99, 111
16.15 17, 99, 111, 114
16.16f. 13, 17, 110
16.16 99, 102, 110
16.17 12f., 84, 99, 111
16.20 11
16.21 28, 33
17.2 12
17.9 136
17.14ff. 19, 86
17.14f. 31
17.15 19, 30, 79
17.19 79
18.1-8 9, 15, 78, 124, 127f., 131-33, 135-37, 139, 141-43, 146f., 150f., 178f.
18.1-5 19, 144, 180
18.1ff. 19, 31, 73, 126, 170
18.1f. 142
18.1 73, 126-28, 136, 139, 142-45, 150, 162f., 181
18.2-5 144
18.2 19, 73, 134, 139, 141, 143, 149, 180
18.2b 145
18.3f. 144f.
18.3 142, 180
18.4 142, 171
18.5 30f., 141f., 145
18.6-8 125-27, 132, 135, 144-47, 151
18.6f. 126
18.6 127, 180
18.7 126f., 129, 139, 143, 146
18.7b 127
18.8 73, 143, 180
18.14 13
18.18 12
19.1-10 15
19.14 15
20.19ff. 15, 17
21.4 173
21.5 30, 166
21.7 51
21.12 166
22.1-4 15
22.6f. 15
22.9-11 15
23.2 94
23.6f. 17
23.17 165
23.19f. 15
23.19 166
23.20f. 16
23.21 17
23.24f. 15
24.4 35
24.6 15
24.9 85
24.10-13 15
24.13 35
24.14f. 15
24.14 181
24.17f. 15
24.18 85
24.19-22 15
24.19 17, 37
24.22 85
25.5ff. 15
25.13ff. 15
25.17-19 121
25.19 12
26 15, 58f., 82, 120, 147
26.1-15 82
26.1-11 15, 82, 111, 119-21
26.1-3 35, 59, 82, 166
26.1 18
26.2 166
26.5-9 121
26.5 177
26.6 82, 172
26.9-11 82
26.9f. 35, 166
26.9 166
26.10 12, 166

Deuteronomy (cont.)
26.11 12
26.12-15 72, 78, 82f.
26.12ff. 69, 82, 85
26.13f. 72
26.13 69f., 72, 87, 170
26.14 72, 172
26.17ff. 120
27–29 33
27 3, 29, 137f., 166
27.5-9 29
27.9-14 137, 143
27.12f. 33, 163
27.14 138, 178
27.15-26 137
28.4 173
28.15ff. 163
28.18 173
28.50-57 173
29.6 33, 59, 166
31.9 137f., 143, 181
31.19 138
31.24ff. 138
31.25 137f., 143, 181
33 130, 148, 163, 165
33.8-11 130, 178
33.19 165

Joshua
5.10-12 104f., 114f., 175
8.33 137f.
13.14 140f., 150
14.1ff. 140
14.3 140f.
14.4 140
15.20 150
18.1 25, 165
18.7 140f., 144f.
19.51 165
21 140f.
21.1-40 134
21.1 140
21.2 134
21.4ff. 141
21.4 140
21.5ff. 140
21.6 131
21.16 134
21.18 134
22 27, 165
22.1ff. 177
22.9-34 26
22.9 26
22.12 26
22.29 26

Judges
17–21 178
17.5 130
17.12 130
19–21 24, 165
19 179
20 24, 26f., 164
20.1 24, 164
20.18 24
20.27 24
20.28 26
21 25
21.21 25

1 Samuel
24
1–3 25, 27
1 25, 165
1.3 26
1.21 25
2.14 25f.
2.22 25f.
2.27-36 25, 145, 165, 179
2.27-30 25
2.28 25
2.35 25
2.36 180
3.14 181
4.4 26
4.10 176
6 131
6.14 168
6.15 131, 134
14.24-30 46, 168
14.28 46
14.31ff. 46
14.31 46
14.32-35 43-49, 168
14.32 44f., 47, 168
14.33 44f.
14.34f. 47
14.35 44
14.36-45 168
20.6 25
22.19 180
22.20 178
26.19 181

2 Samuel
8.17 178
15.24 131
20.1 176
20.19 162
21.3 162
23.16f. 168

1 Kings
2.26f. 178
2.26 179
8 8
12.20 164

2 Kings
12.6-8 171
18.4 164
22–23 132
22.8 1

Deuteronomy (cont.)
23.4 131
23.5 133
23.8f. 133
23.8 133, 146
23.9 126, 132f., 135, 152, 178
23.22 108, 176

1 Chronicles
5.27ff (6.1ff. EVV) 179
15.16 180

2 Chronicles
7.9f. 177
23.6 180
29.16 180
29.25f. 180
30.3 109
30.17 109
30.24 117
30.35 108
31.2 180
31.14 171
34–35 163
35.1 109
35.7ff. 117

Ezra
2.62 180
2.70 135
6.19ff. 108
8.17 180

Nehemiah
7.64 180
7.73 135
8.17f. 177
10 89
10.32ff. 171
10.35ff. 135
10.36 75, 89
10.37 89
10.38 75
12.38 171
12.44 76, 171, 180
12.47 171
13.10 73
13.12 75
13.29 180

Job
39.14f. 17

Psalms
78.60 22, 165
106.17f. 164

Proverbs
2.17 171

Jeremiah
2.7 162
4.20 176
7.12 22, 25
7.14 22
16.18 162
39.9f. 168
41.4ff. 168

Ezekiel
40.45f. 131
40.46b 131
44.10ff. 128f., 178
44.15 178

Hosea
4.15 27
9.5f. 112
12.10 112

Joel
4.13 177

Amos
4.4 27

Tobit
1–14 171

Jubilees
16.21 176

Matthew
26.17 109

Mark
14.1 177

Luke
2.41 107f.
9.24 163
22.1 177

INDEX OF AUTHORS

Abba, R. 138f., 180
Albright, W.F. 132, 134, 171, 179
Allis, O.T. 180
Alt, A. 134, 180
Anderson, G.W., 23f., 27, 164f.
Auerbach, E. 175
Auld, A.G. 160
Avigad, N. 178

Bächli, O. 148f., 164f., 173, 176, 178, 181
Barton, J. 167
Bauer, L. 175
Bertholet, A. 41, 111, 167, 170-72, 174, 176f., 181
Boling, R. 164
Bright, J. 168
Brinker, R. 139, 180
Brueggemann, W. 85, 162, 172
Budde, K. 44f., 164, 167f.
Buis, P. and Leclercq, J. 169, 175f.

Carmichael, C.M. 55, 118, 120, 160, 169, 172, 177
Cassuto, U. 104, 175
Causse, A. 16, 163
Charles, R.H. 171
Childs, B.S. 175, 182
Cholewinski, A. 61, 160, 167
Christ, H. 168
Clements, R.E. 22, 104, 161-65, 175
Clines, D.J.A. 162
Cody, A. 127f., 168, 178f.
Craigie, P.C. 161f., 170f., 173f.
Cross, F.M. 130, 169, 178f.

Dahood, M. 174
Dalman, G. 175
Danby, H. 170
Diepold, P. 10, 13, 161f.
Dillmann, A. 175
Douglas, M. 94, 172f.
Driver, S.R. 1, 70, 90, 106, 138f., 146, 160, 164-68, 170f., 174-77, 179-81
Dumermuth, F. 21, 163-65

Ehrlich, A.B. 73, 167, 171, 175, 179
Eichrodt, W. 167, 170, 175
Eissfeldt, O. 24, 70-74, 76, 164f., 170f., 179
Elhorst, H.J. 175
Elliger, K. 51, 167, 169
Emerton, J.A. 137, 180f.
Engnell, I. 175

Fohrer, G. 164, 179

Geus, G.H.J. de 164f.
Gispen, W. 169
Goldman, S. 168
Gordon, R.P. 160
Gray, G.B. 170
Gray, J. 132, 164, 179f.
Greenberg, M. 171
Grintz, J.M. 168
Gunneweg, A.H.J. 126, 128, 133, 147, 150f., 178-82
Guthe, H. 174

Halbe, J. 103f., 113-15, 119, 174-77
Haran, M. 108, 130f., 133, 135, 165, 174-80
Hempel, J. 180
Hengenstenberg, E.W. 170
Hertzberg, H.W. 45, 165, 167f., 179
Hölscher, G. 41, 167
Horst, F. 40-42, 57, 61, 91, 160, 167, 170, 172, 178, 181
Hulst, A.R. 56, 116, 146, 148f., 160, 165, 169f., 177f., 180f.
Hyatt, J.P. 175

Irwin, W.H. 23, 164

Kaufman, S. 160f., 172
Kaufmann, Y. 124, 134, 178, 180
Keil, C.F. 90, 116f., 172, 177, 179
Kitchen, K.A. 6, 161
Kline, M.G. 161, 171
Knight, D.A. 7, 161
Kraus, H.-J. 22, 27, 164f., 174-76

Lattey, C. 181
Loersch, S. 163
Lohfink, N. 5, 7, 18, 161f., 164, 173

McCarthy, D.J. 161, 168
McConville, J.G. 166, 178f.
McKane, W. 165, 168, 179
McNeile, A.H. 175
Maag, V. 167f.
Maarsingh, B. 16, 160, 162, 178
Maloney, R.P. 163
Mauchline, J. 25, 165, 167f.
Mayes, A.D.H. 3, 5, 21, 23, 101, 160-66, 171, 174-77, 182
Mays, J.L. 112
Mazar, B. 171, 180
Mendenhall, G.E. 3
Merendino, R.P. 91-93, 160, 163, 167, 173, 180
Metzger, B. 171
Michaeli, F. 105, 175
Milgrom, J. 72, 139, 162, 169-71, 180
Minette de Tillesse, G. 5, 161
Möhlenbrink, K. 26, 165
Moore, C.F. 165
Moran, W.L. 168
Muilenburg, J. 7, 161
Myers, J.M. 75, 171

Nelson, R.D. 160
Nicholson, E.W. 160, 163, 165
Nicolsky, N.M. 176
Nielsen, E. 127-29, 178f.
Noth, M. 2-8, 10, 18, 23f., 43, 48, 104, 106, 134, 160f., 164f., 167f., 174f., 179-81

Oestreicher, T. 22, 160, 163, 165
Orlinsky, H. 164
Orr, J. 180

Payne, J.B. 161
Pedersen, J. 116, 174, 176f.
Perlitt, L. 4-6, 8, 10, 18, 161
Polzin, R. 10, 160-62
Priest, J. 162

Rad, G. von 8, 10f., 13, 18, 32, 56f., 61, 91, 147f., 161-67, 169, 173f., 181f.
Reider, J. 175
Rendtorff, R. 169
Renger, J. 179
Rennes, J. 169
Reventlow, H. Graf 169
Ridderbos, J. 180
Rowley, H.H. 163f., 174, 178

Schmid, H.H. 14, 162
Schreiner, J. 22, 164
Segal, J.B. 103, 175f.
Seitz, G. 160, 163, 166
Smend, R. 23, 164f.
Smith, G.A. 162, 167, 170
Smith, W.R. 43, 167, 170, 174, 18
Soggin, J.A. 26, 165
Steuernagel, C. 40-42, 91, 167, 172, 174, 177, 180f.
Stoebe, H.J. 45f., 167f.

Thompson, J.A. 76, 160, 171, 180, 182
Tsevat, M. 179

Vaux, R. de 102, 107f., 164f., 170f., 174-76

Waldow, H.E. von 11, 162
Weinfeld, M. 2, 7f., 71f., 91, 111, 160-62, 164, 170, 173f., 176f.
Welch, A.C. 6, 23, 28, 56, 59, 147, 160f., 163-65, 169, 176, 181

Wellek, R. and Warren, A. 161
Wellhausen, J. 3, 22, 43, 55, 69f., 100f., 124-27, 129, 131, 136, 160, 163, 167, 170, 174, 176, 178
Wenham, G.J. 94, 160, 166, 169, 173, 182
Wette, W.M.L. de 160
Wolff, H.W. 112, 176
Wright, G.E. 137, 144, 180f.

Zimmerli, W. 179